

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93425 / October 26, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-15124

In the Matter of

David F. Bandimere,

Respondent.

ORDER APPROVING
PLAN OF DISTRIBUTION

On November 22, 2019, the Commission settled a previously instituted cease-and-desist proceeding by issuing an Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933 and Sections 15(b) and 21C of the Securities Exchange Act of 1934 (the “Order”)¹ against David F. Bandimere (“Bandimere” or the “Respondent”). In the Order, the Commission found that between 2006 and 2010, the Bandimere violated certain antifraud provisions of the Securities Act while operating as an unregistered broker in selling unregistered investments in IV Capital Ltd. (“IV Capital”) and Universal Consulting Resources LLC (“UCR”), two Ponzi schemes which the Commission brought actions against in 2011 and 2010 respectively.

The Order found that Bandimere raised at least \$9.3 million from over 60 investors while acting as an unregistered broker for these Ponzi schemes and earned transaction-based compensation, which provided the vast majority of his income during that time period. Bandimere initially sold IV Capital directly to investors, but then formed three LLCs to facilitate bringing in investors for both IV Capital and UCR. Bandimere also encouraged the investment of the investors’ retirement funds by setting up self-directed IRA accounts through a third-party provider.

The Order further found Bandimere misled potential investors by presenting only a one-sided, positive view of the IV Capital and UCR investments while failing to disclose numerous red flags and potentially negative facts relating to those investments. Once Bandimere described IV Capital and UCR to potential investors in a materially positive way, he was under a duty to make fair and complete disclosure of these material red flags and negative facts. Bandimere also

¹ Securities Act Rel. No. 10728 (Nov. 22, 2019).

offered and sold securities in UCR and IV Capital when no registration statement was filed or in effect for the transactions, and no exemption applied to the registration requirements.

The Order further found that investors in Bandimere's LLCs ultimately lost all of the money they had invested in the UCR and IV Capital programs, other than what was paid to them as purported returns or returns of capital, when those Ponzi schemes collapsed.

The Commission ordered Bandimere to pay \$370,000.00 in disgorgement and a \$130,000.00 civil money penalty, for a total of \$500,000.00, to the Commission. The Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty paid, along with the disgorgement and interest paid, can be distributed to harmed investors (the "Fair Fund"). The Fair Fund includes the \$500,000.00 paid by the Respondent.

The assets of the Fair Fund are subject to the continuing jurisdiction and control of the Commission. The Fair Fund and has been deposited in an interest-bearing account at the U.S. Department of the Treasury's Bureau of the Fiscal Service, and any interest accrued will be added to the Fair Fund.

On August 31, 2021, the Division of Enforcement, pursuant to delegated authority, published a Notice of Proposed Plan of Distribution and Opportunity for Comment (the "Notice")² pursuant to Rule 1103 of the Commission's Rules on Fair Fund and Disgorgement Plans ("Commission's Rules").³ The Notice advised interested persons that they could obtain a copy of the Proposed Plan of Distribution (the "Proposed Plan") from the Commission's public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Terry Miller, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5876.

The Notice also advised that all persons desiring to comment on the Proposed Plan could submit their comments, in writing, no later than thirty (30) days from the publication of the Notice (1) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090; (2) by using the Commission's Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or (3) by sending an e-mail to rule-comments@sec.gov. The Commission received no comments on the Proposed Plan during the comment period.

The Proposed Plan provides for the distribution of the Net Available Fair Fund⁴ to investors who were defrauded by the Respondent's fraudulent conduct and suffered harm as calculated by the Plan of Allocation used in the Proposed Plan.

The Division of Enforcement now requests that the Commission approve the Proposed Plan.

² Exchange Act Rel. No. 92825 (Aug. 31, 2021).

³ 17 C.F.R. § 201.1103.

⁴ All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Proposed Plan.

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Commission's Rules,⁵ that the Proposed Plan is approved, and the approved Plan of Distribution shall be posted simultaneously with this order on the Commission's website at www.sec.gov.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁶

Vanessa A. Countryman
Secretary

⁵ 17 C.F.R. § 201.1104.

⁶ 17 C.F.R. § 200.30-4(a)(21)(iv).