

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 97258 / April 6, 2023**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-18561**

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**In the Matter of**

**ALEXANDER CAPITAL, L.P.,**

**Respondent.**

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**ADMINISTRATIVE PROCEEDING**

**File No. 3-18562**

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**In the Matter of**

**PHILIP A. NOTO II,**

**Respondent.**

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**ORDER CONSOLIDATING FAIR FUNDS**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-18563**

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**In the Matter of**

**BARRY T. EISENBERG,**

**Respondent.**

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On June 29, 2018, the Commission issued three separate, but related settled orders (collectively, the “Orders”) against Alexander Capital, L.P. (“Alexander Capital”),<sup>1</sup> Philip A.

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<sup>1</sup> See Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing a Remedial Sanctions, Exchange Act Rel. No. 83562 (June 29, 2018), (Admin. Proc. File No. 3-18561).

Noto, III (“Noto”),<sup>2</sup> and Barry T. Eisenberg (“Eisenberg”)<sup>3</sup> (collectively, the “Respondents”). The Commission found that, from July 2012 to September 2014, the Respondents failed to reasonably supervise three registered representatives, formerly associated with Alexander Capital, within the meaning of Section 15(b)(4)(E) of the Securities Exchange Act of 1934 (“Exchange Act”) with a view to preventing and detecting those registered representatives’ violations of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. Alexander Capital also failed to reasonably adopt and implement certain policies and procedures and permitted a lax compliance environment whereby the registered representatives made unsuitable investment recommendations to their customers, churned their customer’s accounts and engaged in unauthorized trading.

The Commission ordered, among other things, Alexander Capital to pay disgorgement of \$193,774.86, prejudgment interest of \$23,436.78, and a civil penalty of \$193,774.86 to the Commission. The Commission also ordered Noto and Eisenberg to pay civil money penalties of \$20,000.00 and \$15,000.00, respectively. In each of the Orders, the Commission created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid, along with the disgorgement and prejudgment interest paid, can be distributed to harmed investors.

Alexander Capital and Eisenberg have paid in full and Noto has paid \$10,000 of his \$20,000 judgment, for a total of \$436,497.40. The Fair Funds are currently on deposit in a Commission-designated account at the United States Department of Treasury. Any interest accrued will be added to the Fair Funds for the benefit of the investors harmed by the conduct described in the Orders.

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<sup>2</sup> See Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing a Remedial Sanctions, Exchange Act Rel. No. 83563 (June 29, 2018), (Admin. Proc. File No. 3-18562) (the “Noto Order”).

<sup>3</sup> See Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing a Remedial Sanctions, Exchange Act Rel. No. 83564 (June 29, 2018), (Admin. Proc. File No. 3-18563) (the “Eisenberg Order”).

In a related district court action, William C. Gennity and Rocco Roveccio (collectively, the “Defendants”) were ordered to pay \$302,483.47 and \$324,613.98 in disgorgement, prejudgment interest, and civil penalties, respectively, and the Court further ordered all monies paid to be combined with the Fair Fund established in *Alexander Capital, L.P.*, Admin. Proc. File No. 3-18561 (the “Alexander Capital Fair Fund”).<sup>4</sup> To date, the Commission has collected a total of \$308,491.05 from the Defendants.

The Division of Enforcement recommends that the Fair Funds created pursuant to the Noto and Eisenberg Orders be consolidated with the Alexander Capital Fair Fund for purposes of distribution administration, so that all funds collected from the Respondents, along with the funds collected from the Defendants, including any additional funds collected in the future, can be efficiently distributed to harmed investors.

Accordingly, IT IS HEREBY ORDERED that the Fair Funds created pursuant to the Noto and Eisenberg Orders, and any future funds received, are consolidated with the Alexander Capital Fair Fund for purposes of distribution to harmed investors.

By the Commission.

Vanessa A. Countryman  
Secretary

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<sup>4</sup> *SEC v. Gennity, et al.*, Civil Action No. 17-cv-7424 (S.D.N.Y. 2017).