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EVENTS & WEBINARS

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IA Compliance: Master Emerging Challenges

Sept. 16, 2019 | Philadelphia, PA

UPCOMING WEBINARS

Conquering Current Compliance Challenges

Sept. 11, 2019 | 2:00 - 2:30 PM EST

RECORDED WEBINARS

Conquering Current Compliance Challenges

Recorded: August 14, 2019

HANDBOOKS

Private Equity Enforcement Lessons Learned: Compliance Guidance for the PE Business Model

Includes: Best Practices, Key Regulatory Issues and Compliance Tips

The SEC Examinations Priorities Handbook (2019 Edition)

Includes: Best Practices, Document Request Letters and OCIE Risk Alerts

The Adviser's Guide to SEC Advertising and Marketing Rules

Includes: 23 Best Practices, 5 Peer-tested tools and 15 No Action Letters

Search IA Watch



Failure to adequately disclose compensation conflicts lands penalty for IA

Published on: 7/25/2019 Content area: Investment Adviser

Comments?

A pair of Alaska investment adviser managing principals didn't properly disclose payments their firm received from a private real estate fund that they were urging clients to invest in and now they'll have to open up their own checkbooks, an [SEC settlement](#) released July 24 shows.

Foundations Asset Management (\$175M in AUM) in Anchorage, Alaska, is censured and will have to disgorge more than \$250,000 in fees, pay interest of more than \$25,000 and another \$85,000 in fines and post on its website a summary of the settlement. Its principals **Michael Shamburger** and **Rob Wedel**, will pay \$50,000 and \$25,000, respectively, in penalties.

Authorities alleged after a 2016 SEC exam that Shamburger and Wedel had pocketed up-front and trailing fees from the real estate fund and its manager in exchange for recommending investments in the fund without properly disclosing the relationship for a three-year period spanning May 2013 to June 2016. Sixty-two Foundations clients ultimately invested \$12 million in the real estate fund.

'Unreasonable' assumptions

The SEC noted that Shamburger and Wedel had told many of their clients both via a written disclosure acknowledgement form and verbally that Foundations had been paid by the real estate fund but it was found that those disclosures "did not adequately address the conflicts of interest." In the Commission's view the pair "unreasonably assumed that clients would understand the nature and magnitude" of Foundations conflicts by generally telling them that the firm received compensation from the fund.

Shamburger and Wedel didn't properly disclose the relationship until June 2016, when SEC officials sent the firm a deficiency letter after an exam, the Commission said.

Failure to register as B-D

The SEC further found that Foundations failed to register as a broker and made materially false statements regarding its compensation in five Form ADV 2A filings.

Under the settlement, Foundations will also waive its rights to any trailing fees.

The information contained herein was current as of the publication date.

Indexed by: Client Communications | Form ADV | Broker-Dealers | Disclosures |

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