

>>>FAIRVIEW FLASH REPORT<<<

Adviser Charged with Failing to Report Business-Related Electronic Communications

WHAT HAPPENED?	<p>On March 13, 2017, the SEC charged an investment adviser representative (“Respondent”) with selling \$5 million of unregistered, illiquid securities to brokerage customers and investment advisory clients outside of his employment. Respondent utilized personal communication devices to solicit client investments and failed to archive such written communications as required by the Advisers Act and the compliance programs of the broker dealer and investment adviser for which he worked. Although Respondent received copies of the relevant policies and procedures and multiple warnings, he continued to solicit client investments through personal communication devices without properly archiving the messages. Respondent also misrepresented material information about the investment and failed to conduct due diligence to verify any information provided.</p>
WHAT WERE THE IMPLICATIONS?	<p>Respondent’s conduct was in direct violation of Sections 206(1) and 206(2) of the Advisers Act, which prohibit investment advisers from engaging in fraudulent activity. Respondent also violated Rule 17a-4(b)(4) of the Exchange Act by failing to preserve originals of all communications sent and received that related to the broker-dealers’ business for a period of at least three years. The Respondent has been issued a cease and desist order and will be forced to pay a civil penalty.</p>
WHAT DOES THIS MEAN FOR ME?	<p>The SEC’s charges exemplify its intention to assert individual accountability instead of punishing the entire firm. Fairview encourages all investment advisers and broker-dealers to periodically review their supervised persons’ activities and ensure they are upholding their regulatory responsibility. Additionally, it is imperative for employees to understand that failure to adhere to the firm’s compliance program could ultimately result in personal liability.</p> <p>Please feel free to contact Fairview with any questions or concerns you might have about this case and how it relates to your firm.</p>

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Sources: <https://www.sec.gov/litigation/admin/2017/34-80221.pdf>