

>>>FAIRVIEW FLASH REPORT<<<

CCO Charged with Inadequate Form ADV Disclosures

WHAT HAPPENED?	<p>On March 29, 2017, the SEC charged the dually-acting principal and Chief Compliance Officer of Alison, LLC, with failing to provide specific books and records to the Commission’s examination staff. In addition, the examination concluded that the registered investment adviser’s Form ADV failed to disclose both the firm’s deteriorating financial condition and conflict of interest with clients resulting from 12b-1 fees.</p>
WHAT WERE THE IMPLICATIONS	<p>Over the course of the examination, the CCO was repeatedly unable to provide the necessary documentation to indicate Alison, LLC’s (“ALLC”) compliance with federal securities laws. Such documents included financial statements, bank statements, and agreements. The CCO violated Section 204(a) of the Advisers Act for its inability to provide the appropriate books and records as prescribed by the Commission.</p> <p>ALLC’s financial conditions began deteriorating in 2011, which impeded its ability to uphold contractual commitments to clients. While the situation worsened, the CCO continuously signed multiple Form ADVs that omitted its financial decline. These Form ADVs also failed to disclose that ALLC’s clients were paying 12b-1 fees for their investments in mutual funds when they could have invested in the same fund, but in share classes that excluded these fees. Due to the CCO’s registration as a representative of the broker-dealer that facilitated these investments, ALLC was then able to receive the majority of these fees, creating a conflict of interest with its advisory clients. These inadequate disclosures were in violation of Section 206(2) of the Advisers Act for its deceitful conduct and Section 207 of the Advisers Act for its misleading statements. The SEC has thus issued a Cease-and-Desist order against ALLC and its CCO due to these violations.</p>
WHAT DOES THIS MEAN FOR ME?	<p>Registered investment advisers should ensure that their compliance program meets all requirements of the Advisers Act. This includes the ability to produce all appropriate books and records and accurately disclose all relevant business operations. It is imperative that a firm’s Form ADV is also reviewed and kept up to date. Please contact Fairview if you have any questions or concerns about how your firm meets these requirements.</p>

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Sources: <https://www.sec.gov/litigation/admin/2017/34-80335.pdf>