

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82124 / November 20, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-16776

In the Matter of

**TABERNA CAPITAL MANAGEMENT,
LLC, MICHAEL FRALIN, AND
RAPHAEL LICHT**

Respondents.

**ORDER APPOINTING FUND
ADMINISTRATOR AND SETTING
ADMINISTRATOR BOND AMOUNT**

On September 2, 2015, the Commission issued an Order Instituting Administrative and Cease-And-Desist Proceedings Pursuant to Sections 4C, 15(b), and 21C of the Securities Exchange Act of 1934, Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940, Section 9(b) of the Investment Company Act of 1940, and Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions and Cease-And-Desist Orders¹ against Taberna Capital Management, LLC ("Taberna"), Michael Fralin ("Fralin"), and Raphael Licht ("Licht") (collectively, the "Respondents"). The Commission determined that, between 2009 and 2012, in connection with restructuring transactions undertaken between the Taberna collateralized debt obligation clients (the "Taberna CDOs") and the issuers of the underlying obligation in Taberna CDOs' portfolios, Taberna retained certain fees ("Exchange Fees") that should have been paid to the Taberna CDOs. The Commission further determined that the retention of Exchange Fees created actual and potential conflicts of interest that Taberna failed to disclose to its clients. The Commission found that Fralin and Licht, former officers of Taberna and its parent company, respectively, participated in the misconduct. The Commission ordered Taberna to disgorge \$13 million and pay prejudgment interest of \$2 million and a civil penalty of \$6.5 million, and Fralin and Licht to pay civil penalties of \$100,000.00 and \$75,000.00, respectively. The Commission established a disgorgement fund for the distribution of the \$15 million in disgorgement and prejudgment interest paid by Taberna to injured investors to compensate them for the harm they suffered as a result of the Respondents' violations.

¹ Exchange Act Rel. No. 75814 (Sept. 2, 2015).

On August 24, 2017, the Commission issued an Order Establishing a Fair Fund, establishing a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, so that ordered civil penalties, including the \$6.6 million thus far collected from the Respondents and any future collections, could be added to the \$15 million in disgorgement and prejudgment interest, for the benefit of the injured investors.²

The Division of Enforcement now seeks the appointment of Rust Consulting, Inc. (“Rust”) as the fund administrator in the above-captioned proceeding and requests that the administrator’s bond be set at \$21.675 million, as required by Rules 1105(a) and 1105(c) of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Rules”).³ Rust is included in the Commission’s approved pool of administrators.

Accordingly, it is hereby ORDERED, that Rust is appointed as the fund administrator, pursuant to Rule 1105(a) of the Rules, 17 C.F.R. § 201.1105(a), and the administrator shall obtain a bond in the amount of \$21.675 million, in accordance with Rule 1105(c) of the Rules, 17 C.F.R. § 201.1105(c).

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁴

Brent J. Fields
Secretary

² Exchange Act Rel. No. 81477 (Aug. 24, 2017).

³ 17 C.F.R. §§ 201.1105(a) and 201.1105(c).

⁴ 17 C.F.R. § 200.30-4(a)(17).