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U.S. Securities and Exchange Commission  
Press Release: Investment Advisers Paying  
Penalties for Advertising False Performance  
Claims (August 25, 2016)

Submitted by:  
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## **Press Release**

### Investment Advisers Paying Penalties for Advertising False Performance Claims

#### **FOR IMMEDIATE RELEASE**

**2016-167**

*Washington D.C., Aug. 25, 2016* — The Securities and Exchange Commission today announced penalties against 13 investment advisory firms found to have violated securities laws by spreading the false claims made by an investment management firm about its flagship product.

An SEC enforcement sweep of investment advisers found that the 13 firms accepted and negligently relied upon claims by F-Squared Investments that its AlphaSector strategy for investing in exchange-traded funds (ETFs) had outperformed the S&P Index for several years. The firms repeated many of F-Squared's claims while recommending the investment to their own clients without obtaining sufficient documentation to substantiate the information being advertised. F-Squared later admitted in an SEC enforcement case that what was purportedly its real, historical track record was only back-tested performance that turned out to be substantially inflated.

The penalties assessed against the firms range from \$100,000 to a half-million dollars based upon the fees each firm earned from AlphaSector-related strategies.

"When an investment adviser echoes another firm's performance claims in its own advertisements, it must verify the information first rather than merely accept it as fact," said Andrew J. Ceresney, Director of the SEC Enforcement Division. "These advisers negligently passed many of F-Squared's claims onto their own clients, who were consequently relying upon false and misleading information when making investment decisions."

Anthony S. Kelly, Co-Chief of the SEC Enforcement Division's Asset Management Unit, added, "The Asset Management Unit continues to investigate and pursue similar enforcement actions against other advisers that potentially misled investors and others with advertisements containing F-Squared's false historical performance data."

Without admitting or denying the findings, the 13 investment advisers consented to the entry of orders finding that they violated Sections 204 and 206(4) of the Investment Advisers Act of 1940 and Rules 204-2(a)(16) and 206(4)-1(a)(5).

The SEC's investigations have been conducted by Robert Baker, William Donahue, John Farinacci, Jeffrey Finnell, Corey Schuster, Naomi Sevilla, Rory Alex, Marc Jones, Alicia Reed, and Sonia Torrico.

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#### **SEC Orders and Penalties**

AssetMark – \$500,000

BB&T Securities – \$200,000

Banyan Partners – \$200,000

Congress Wealth Management – \$100,000

Constellation Wealth Advisors – \$100,000

Executive Monetary Management – \$100,000

HT Partners – \$100,000

Hilliard Lyons – \$200,000

Ladenburg Thalmann Asset Management – \$200,000

Prospera Financial Services – \$100,000

Risk Paradigm Group – \$100,000

Schneider Downs Wealth Management Advisors – \$100,000

Shamrock Asset Management – \$200,000

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## NOTES

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