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*Co-Chairs*

Barry P. Barbash

Paul F. Roye

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Practising Law Institute  
1177 Avenue of the Americas  
New York, New York 10036

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U.S. Securities and Exchange Commission  
Press Release: Hedge Fund Manager  
Charged in Scheme Involving Terminally Ill  
(August 15, 2016)

Submitted by:  
Paul F. Roye

*Capital Research and Management Company*

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## Press Release

### Hedge Fund Manager Charged in Scheme Involving Terminally Ill

#### **FOR IMMEDIATE RELEASE**

**2016-162**

*Washington D.C., Aug. 15, 2016* — The Securities and Exchange Commission today announced fraud charges against a hedge fund manager and his firm accused of paying terminally ill individuals to use their names on purportedly joint brokerage accounts so he could purchase investments on behalf of his hedge fund and redeem them early by invoking a survivor's option.

An SEC examination of investment advisory firm Eden Arc Capital Management uncovered the scheme alleged by the SEC Enforcement Division in an order instituted today. Donald Lathen of New York City allegedly used contacts at nursing homes and hospices to identify patients with less than six months to live, and he successfully recruited at least 60 of them by paying \$10,000 apiece to use their names on accounts. When a patient died, Lathen allegedly redeemed investments in the accounts by falsely representing to issuers that he and the terminally ill individuals were joint owners of the accounts. Lathen's hedge fund was the true owner of the survivor's option investments. Issuers paid out more than \$100 million in early redemptions as a result of the alleged misrepresentations and omissions by Lathen and Eden Arc Capital.

The SEC Enforcement Division further alleges that Lathen violated the custody rule by failing to properly place the hedge fund's cash and securities in an account under the fund's name or in an account containing only clients' funds and securities, under the investment adviser's name as agent or trustee for the client.

"We allege that Lathen deceived issuers by falsely claiming that he and the deceased jointly owned the bonds when the hedge fund was the true owner of the investments," said Andrew M. Calamari, Director of the SEC's New York Regional Office. "Lathen allegedly put hedge fund client assets at risk by keeping them in accounts in his and the terminally ill individuals' names rather than following the custody rule."

The SEC Enforcement Division alleges that Lathen, Eden Arc Capital Management, and Eden Arc Capital Advisors violated Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. The Enforcement Division further alleges that Eden Arc Capital Management violated Section 206(4) of the Advisers Act and Rule 206(4)-2, and Lathen aided and abetted and caused those violations.

The matter will be scheduled for a public hearing before an administrative law judge, who will prepare an initial decision stating what, if any, remedial actions are appropriate.

The SEC's investigation was conducted by Janna Berke, Judith Weinstock, Frank Milewski, Adam Grace, and Michael Birnbaum. The case was supervised by Lara Shalov Mehraban and the litigation will be led by Alexander Janghorbani, Ms. Weinstock, and Ms. Berke. The SEC examiners who detected the wrongdoing during the examination of Eden Arc Capital Management are Kathleen Raimondi, Lawrence Chinsky, and George DeAngelis.

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## Related Materials

- [SEC order](#)

## NOTES

## NOTES