

SEC Enforcement Case Summary Undisclosed Conflicts Based on Relationship with Portfolio Company CEO

On December 20, 2024, the SEC charged private fund manager, Rose Park Advisors, LLC, and its owner Matthew Q. Christensen for failing to disclose actual or potential conflicts of interest based on Christensen's personal, familial and financial connections with the Chief Executive Officer (CEO) of one of the portfolio companies in which one fund invested. The defendants agreed to \$550,000 and \$50,000 penalties, respectively in the settled action.

The SEC's order noted that Christensen's uncle was the portfolio company's CEO, and that the two men had a close relationship. The uncle serves as trustee for three trusts in which Christensen is a beneficiary and which guaranteed repayment of a substantial line of credit to Christensen. In his capacity as trustee, the uncle authorized investments by the trusts and facilitated various transactions that benefited Christensen. The SEC noted that the trusts were among the top five largest investors in the fund and benefited from waived management and incentive fees by Rose Park. Moreover, the SEC noted that Christensen's and the uncle's families socialized and spent holidays together and that Christensen gifted the uncle a car that cost more than \$175,000.

Christensen, in turn, caused the fund to make an initial \$1.5 million investment in the portfolio company for which the uncle served as CEO and 42 additional follow-on investments over more than a 10-year period for a total investment of \$49.6 million. The SEC order noted that the fund was the only investor in the portfolio company, and the capital infusions from the fund were essential for the company to maintain its business operations, including salaries to the CEO and other employees.

The SEC noted that the familial and financial connections between Christensen and the portfolio company CEO presented multiple actual or potential conflicts of interest that required disclosure to the fund. According to the SEC order, the financial connections between Christensen and the portfolio company's CEO were known within Rose Park, including by compliance personnel in place at the time. Nevertheless, neither Rose Park nor Christensen ever disclosed those actual or potential conflicts of interest to the fund. Certain of the quarterly updates Rose Park provided to fund investors explained the basis for investing in the portfolio company in the context of its investment framework, but did not disclose the familial relationship, the fact that the portfolio company's CEO served as trustee for the trusts invested in the Fund and for which Christensen was a beneficiary, or the financial transactions between the two men. Accordingly, the SEC claimed that such communications were misleading.

This case serves as a reminder that the SEC expects that all actual and potential conflicts of interest related to investments be disclosed to clients and fund investors. Ultimately, it does not matter whether the investment is profitable or in the interest of the fund or investors, if there is a conflict of interest, disclosure of such conflict in advance of making the investment is paramount.

See Summary - <https://www.sec.gov/files/litigation/admin/2024/ia-6802.pdf>