

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101748 / November 25, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22259

In the Matter of	:	
	:	
PHX Financial, Inc.,	:	EXTENSION ORDER
	:	
Respondent.	:	
	:	

The Division of Enforcement (“Division”) has requested an extension of time until December 15, 2025, to submit a Proposed Plan of Distribution under Rule 1101(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1101(a).

On October 16, 2024, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”)¹ against PHX Financial, Inc. (the “Respondent”). In the Order, the Commission found that from January 2019 to October 2021 (the “Relevant Period”), a PHX registered representative (“Representative 1”) recommended a short-term, high-volume investment strategy to at least eight of PHX’s retail customers without a reasonable basis. According to the Order, as a result of the high volume of recommended transactions and their attendant commissions and fees, it would have been virtually impossible for these customers to achieve positive returns.

¹ Exchange Act Rel. No. 101361 (Oct. 16, 2024).

The Commission found that while these customers each lost money in their PHX brokerage accounts (the “Accounts”) during the Relevant Period, PHX and Representative 1 together made over \$400,000 in commissions and fees from those Accounts.

According to the Order, the Relevant Period encompasses conduct both before and after Regulation Best Interest’s (“Reg BI”) compliance date, June 30, 2020 (the “Pre-Reg BI Period” and “Reg BI Period,” respectively). The Commission found that, during the Pre-Reg BI Period, PHX failed reasonably to supervise Representative 1, within the meaning of Section 15(b)(4)(E) of the Securities Exchange Act of 1934 (“Exchange Act”), with the view to preventing and detecting Representative 1’s violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”) and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

The Commission further found that, during the Reg BI Period, PHX violated the Reg BI Care Obligation, Exchange Act Rule 15l-1(a)(2)(ii), when Representative 1 recommended a series of transactions to retail customers without a reasonable basis to believe that the recommended transactions, even if in the customers’ best interests when viewed in isolation, were not excessive and in the customers’ best interests when taken together in light of the customers’ investment profiles. Additionally, according to the Order, PHX violated the Reg BI Compliance Obligation, Exchange Act Rule 15l-1(a)(2)(iv), by failing to establish, maintain and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI’s Care Obligation. The Commission found that, as a result of PHX’s violations of Reg BI’s Care and Compliance Obligations, it also violated Reg BI’s General Obligation, Exchange Act Rule 15l-1(a)(1), which requires compliance with Reg BI’s component obligations.

Among other things, the Commission ordered the Respondent to pay \$142,995.19 in disgorgement, \$24,993.85 in prejudgment interest, and a \$180,000.00 civil money penalty, for a

total of \$347,989.04, to the Commission. The Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty collected, along with the disgorgement and prejudgment interest collected, can be distributed to harmed investors (the “Fair Fund”).

The Fair Fund consists of the \$347,992.04 collected from the Respondent. The Fair Fund has been deposited in a Commission-designated account at the U.S. Department of the Treasury, and any accrued interest will be added to the Fair Fund.

In its request for an extension of time, the Division states that additional time is needed to complete the fund administrator solicitation and appointment process, select and appoint a tax administrator, develop the distribution methodology, and prepare the proposed plan of distribution.

Accordingly, for good cause shown, IT IS HEREBY ORDERED that the Division’s request for an extension of time until December 15, 2025, to submit a Proposed Plan of Distribution is granted.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.²

Vanessa A. Countryman
Secretary

² 17 C.F.R. § 200.30-4(a)(21)(i).