

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 6771 / November 8, 2024**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-22307**

**In the Matter of**

**EPIC CAPITAL WEALTH  
ADVISORS, LLC,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
PROCEEDINGS PURSUANT TO SECTION  
203(c)(2)(B) OF THE INVESTMENT  
ADVISERS ACT OF 1940 AND NOTICE OF  
HEARING**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(c)(2)(B) of the Investment Advisers Act of 1940 (“Advisers Act”) against Epic Capital Wealth Advisors, LLC (“Respondent” or “Epic Capital”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A. RESPONDENT AND RELATED PARTIES**

1. Epic Capital (CRD 323482) is a Utah limited liability company with its principal place of business in Heber City, Utah.

2. Anthony Capital, LLC (“Anthony Capital”) (CRD 152504) was a Colorado limited liability company with its principal place of business in Broomfield, Colorado. As of December 2023, Anthony Capital is a Utah limited liability company with its principal place of business in Broomfield, Colorado. Anthony Capital was licensed with the State of Colorado as an investment adviser from 2013 until its license was suspended in 2022.

3. David M. Anthony (“Anthony”) (CRD 3068955), 49, is a resident of Westminster, Colorado. He is the president, chief compliance officer, and 100% owner of Epic Capital. Anthony is also the president, chief compliance officer, and 100% owner of Anthony Capital. Based upon his positions and ownership interest, Anthony is a “person associated with” Anthony Capital and Epic Capital as that term is defined in Section 202(a)(17) of the Advisers Act. For the period of the time in which he engaged in the conduct underlying the injunction described below, Anthony was associated with an investment adviser, Anthony Capital.

#### B. EPIC CAPITAL’S APPLICATION FOR REGISTRATION

4. On September 24, 2024, Epic Capital filed an application on Form ADV with the Commission for registration as an investment adviser, which was amended on October 2, and October 25, 2024. In its application, Epic Capital listed Anthony as its president, chief compliance officer, and 100% owner.

5. Were Epic Capital to be registered as an investment adviser, its registration would be subject to suspension or revocation under Section 203(e) of the Advisers Act.

6. Section 203(c)(2) of the Advisers Act provides that within 45 days of the date of the filing of an application to register as an investment adviser (or within such longer period as to which the applicant consents) the Commission shall (A) by order grant such registration; or (B) institute proceedings to determine whether registration should be denied. Such proceedings shall be concluded within one hundred twenty days of the date of the filing of the application for registration. At the conclusion of such proceedings the Commission, by order, shall grant or deny such registration. The Commission may extend the time for conclusion of such proceedings for up to ninety days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

#### C. ENTRY OF THE INJUNCTION AGAINST ANTHONY

7. On April 17, 2023, a final judgment was entered against Anthony, Anthony Capital, and several of Anthony’s other entities enjoining them, for 10 years, in the State of Colorado, from offering and selling securities, making recommendations or otherwise rendering advice to clients regarding securities and managing securities accounts or portfolios for clients, and engaging in business as a securities broker-dealer, sales representative, investment adviser, or investment adviser representative as set forth in the Order of Permanent Injunction and Other Relief in the civil action entitled *Chan v. Anthony, et al.*, No. 22CV30574, in the District Court, Denver County, in Colorado.

8. The order resulted from a complaint filed in March 2022 by the Securities Commissioner for the State of Colorado against Anthony and his various entities, including Anthony Capital. (It did not involve Epic Capital). *Tung Chan, Securities Commissioner for the State of Colorado v. David M. Anthony, et al.*, No. 22CV30574 (Dist. Ct. Colo. March 1, 2022) (“Complaint”). The Complaint alleged, among other things, that Anthony, while associated with an investment adviser, Anthony Capital, through a series of companies he owned and controlled,

acquired \$26.5 million of investor money and (1) offered and sold unregistered securities without being licensed as a sales representative and through entities that were not licensed as broker-dealers; (2) offered investment advice and accepted commissions through entities that were not licensed as investment advisers; (3) commingled money invested in his various offerings and used proceeds from some funds to pay off investors in other funds; and (4) failed to provide full and fair disclosure of material facts to investors, including that he received commissions ranging from 21 to 44 percent and about \$2.3 million in investor money went directly to him. The Complaint alleged that investors had not received returns from the majority of the investments.

### **III.**

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. Whether the pending application of Epic Capital for registration as an investment adviser should be denied pursuant to Section 203(c)(2)(B) of the Advisers Act.

### **IV.**

IT IS ORDERED that a public hearing before the Commission for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent by any means permitted by the Commission's Rules of Practice.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

Attention is called to Rule 151(a), (b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(a), (b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed electronically in administrative proceedings using the Commission's Electronic Filings in Administrative Proceedings (eFAP) system access through the Commission's website, [www.sec.gov](http://www.sec.gov), at <http://www.sec.gov/eFAP>. Respondent also must serve and accept service of documents electronically. All motions, objections, or applications will be decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no public hearing is necessary. In the absence of an

appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Vanessa A. Countryman  
Secretary