

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 103859 / September 4, 2025**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11514**

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<b>In the Matter of</b>	:	<b>ORDER AUTHORIZING THE TRANSFER</b>
	:	<b>TO THE U.S. DEPARTMENT OF THE</b>
	:	<b>TREASURY OF THE REMAINING FUNDS</b>
<b>FIDELITY NATIONAL CAPITAL</b>	:	<b>AND ANY FUNDS RETURNED TO THE FAIR</b>
<b>INVESTORS,</b>	:	<b>FUND IN THE FUTURE, DISCHARGING</b>
	:	<b>THE FUND ADMINISTRATOR, AND</b>
<b>Respondent.</b>	:	<b>TERMINATING THE FAIR FUND</b>

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**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11515**

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<b>In the Matter of</b>	:
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<b>CHARLES W. CROUSE and</b>	:
<b>NORMAN R. HESS,</b>	:
	:
<b>Respondents.</b>	:

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On June 8, 2004, the Commission issued an Order Instituting Administrative Proceedings, making Findings, and Imposing Remedial Sanctions Pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Fidelity National Capital Investors, Inc. (“Fidelity”).<sup>1</sup> On February 25, 2005, in connection with the public administrative proceedings instituted on June 8, 2004,<sup>2</sup> the Commission issued an Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 15(b) of the Securities Exchange Act of 1934 against Norman R. Hess (“Hess”)<sup>3</sup> and on April 6, 2005, also in connection with the public administrative proceedings instituted on June 8, 2004, the Commission issued an Order Making Findings and Imposing Remedial Sanctions and a Cease-and Desist Order Pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Sections 15(b) and 21C of the Securities

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<sup>1</sup> Exchange Act Rel. No. 49824 (June 8, 2004).

<sup>2</sup> Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Sections 15(b) and 21C of the Securities Exchange Act of 1934, Exchange Act Rel. No. 3-11515 (June 8, 2004).

<sup>3</sup> Exchange Act Rel. No. 51266 (Feb. 25, 2005).

Exchange Act of 1934 (“Exchange Act”) against Charles W. Crouse (“Crouse”),<sup>4</sup> (collectively the “Orders”).

The Commission found that Fidelity, a registered broker dealer and a subsidiary of Fidelity National Corp., failed reasonably to supervise within the meaning of Section 15(b)(4)(E) of the Exchange Act because it failed to establish an adequate system to implement procedures reasonably designed to detect and prevent violations of the securities laws by a registered representative, and failed reasonably to supervise a registered representative with a view toward preventing his willful aiding and abetting violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.<sup>5</sup> The Commission also found that Hess, the president of Fidelity National Capital Investors, Inc., failed reasonably to supervise a customer’s registered representative with a view toward preventing his aiding and abetting violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder,<sup>6</sup> and that Crouse, a registered representative of Fidelity National Capital Investors, Inc., willfully aided and abetted and caused Customer’s violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.<sup>7</sup>

Among other things, the Commission ordered that Fidelity pay disgorgement and prejudgment interest of \$50,000 and a civil penalty of \$75,000, for a total payment of \$125,000. The Commission ordered Hess to pay disgorgement and prejudgment of \$24,384.65 (\$17,784.17 plus prejudgment interest) and a civil penalty of \$10,000, for a total payment of \$34,385.65. The Commission ordered Crouse to pay disgorgement of \$54,121 and prejudgment interest of \$20,824.71, for a total payment of \$74,945.71. In the Order, the Commission created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the civil penalty monies collected, along with the disgorgement and prejudgment interest collected, could be distributed to harmed investors (the “Fair Fund”). The Respondents paid a total of \$234,331.47 pursuant to the Order, which comprised the Fair Fund.

On October 5, 2004, the Secretary, pursuant to delegated authority, published a Notice of Proposed Plan of Disgorgement and Fair Fund Distribution and Opportunity for Comment as to Fidelity National Capital Investors, Inc. (“Fidelity Notice”),<sup>8</sup> and on August 17, 2005, the Secretary, pursuant to delegated authority, published a Notice of Proposed Plan of Disgorgement and Fair Fund Distribution and Opportunity for Comments as to Charles W. Crouse and Norman R. Hess (“Crouse/Hess Notice”).<sup>9</sup> Both notices were issued pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”);<sup>10</sup> and simultaneously posted the respective Proposed Plans of Distribution (the “Proposed Plans”). The Fidelity Notice stated that a copy of the Distribution Plan could be obtained by submitting a written request to Nancy Chase Burton, U.S. Securities and Exchange Commission, 450 5<sup>th</sup> Street NW, Room 9007, Washington DC 20549 and advised that interested persons desiring to comment on the Distribution Plan could submit their views, in writing no later than November 4,

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<sup>4</sup> Securities Act Rel. No. 8562 (Apr. 6, 2005); Exchange Act Rel. No. 51480 (Apr. 6, 2005).

<sup>5</sup> Exchange Act Rel. No. 49824 (June 8, 2004).

<sup>6</sup> Exchange Act Rel. No. 51266 (Feb. 25, 2005).

<sup>7</sup> Securities Act Rel. No. 8562 (Apr. 6, 2005).

<sup>8</sup> Exchange Act Rel. No. 50493 (Oct. 5, 2004).

<sup>9</sup> Exchange Act Rel. No. 52279 (Aug. 12, 2005).

<sup>10</sup> 17 C.F.R. § 201.1103.

2004 to the Office of the Secretary, U.S. Securities and Exchange Commission, 450 5<sup>th</sup> Street NW Washington DC 20549. The Crouse/Hess Notice stated that a copy of the Distribution Plan could be obtained by submitting a written request to Nancy Chase Burton, U.S. Securities and Exchange Commission, 100 F Street, NE, Mail Stop 4010A, Washington, DC 20549-5876 and advised that all persons desiring to comment on the Proposed Plan could submit their comments, in writing, no later than September 16, 2005 to the Office of the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington DC 20549. The Commission received no comments on the Proposed Plans during the comment period.

On December 7, 2004, the Secretary, pursuant to delegated authority, issued an order approving the Proposed Plan as to Fidelity National Capital Investors, Inc.,<sup>11</sup> and posted the approved Plan of Distribution (the “Fidelity Plan”). On October 26, 2006, the Secretary, pursuant to delegated authority, issued an order approving the Proposed Plan as to Charles W. Crouse and Norman R. Hess,<sup>12</sup> and posted the approved Plan of Disgorgement and Fair Fund Distribution (the “Plan”).

The Plan appointed Nancy Burton, a Commission employee, as the Fund Administrator to oversee the administration and distribution of the Fair Fund. The Division also requested that the settlement funds in the Crouse/Hess Orders be consolidated with the settlement fund in the Fidelity Order for the purposes of distribution administration. The Plan set forth a methodology for allocating the Net Available Fair Fund comprised of the \$234,331.47 collected from Fidelity, Crouse and Hess, less taxes, fees, and expenses. The Plan compensated 62 investors whose statuses as injured investors have been resolved by the Commission as eligible to receive a distribution (the “Claimants”). Any remaining funds following distribution to harmed investors were to be transferred to the U.S. Department of the Treasury (“Treasury”) and the Fair Fund terminated, subject to the Commission’s approval of the Fund Administrator’s final accounting.

On February 14, 2006, the Commission appointed Damasco and Associated LLP (“Damasco”), which later became known as Miller Kaplan Arase LLP (“Miller Kaplan”), as the Tax Administrator in the proceedings to handle tax-related obligations of the Fair Fund.

On April 2, 2008 the Commission issued an Order Approving and Ratifying Prior Disbursement and Approving Future Disbursement of the Fair Fund;<sup>13</sup> and on December 16, 2011, the Commission issued an Order Directing Disbursement of the Fair Fund.<sup>14</sup> As ordered by the Commission, the Fund Administrator distributed a total of \$227,000.60 from the Fair Fund pursuant to the Plan in 4 tranches.<sup>15</sup> The amount of \$227,000.60 was successfully disbursed to 62 recipient investors. Each harmed investor received a pro rata distribution of approximately 7.05% of their net harm. The Fair Fund did not earn in interest and paid state and federal taxes of \$1,493.28. The tax administration fees and expenses were \$4,367. The Fair Fund currently holds \$1,005.35.

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<sup>11</sup> Exchange Act Rel. No. 50801 (Dec. 7, 2004).

<sup>12</sup> Exchange Act Rel. No. 52678 (Oct. 26, 2005).

<sup>13</sup> Exchange Act Rel. No. 57607 (Apr. 2, 2008).

<sup>14</sup> Exchange Act Rel. No. 65999 (Dec. 16, 2011).

<sup>15</sup> Exchange Act Rel. No. 57606 (Apr. 2, 2008); Exchange Act Rel. No. 57607 (Apr. 2, 2008); Exchange Act Rel. No. 65999 (Dec. 16, 2011).

Pursuant to the Plan, the Fair Fund is eligible for termination and the Fund Administrator for discharge after all of the following have occurred: (a) the final accounting has been submitted by the Fund Administrator for approval and has been approved by the Commission; and (b) all taxes have been paid.

The Commission staff has confirmed that the Fund Administrator has completed the distribution process in accordance with the Commission's orders and that all taxes, fees and expenses have been paid. The final accounting, which was submitted to the Commission for approval, as required by Rule 1105(f) of the Commission's Rules, 17 C.F.R. § 201.1105(f), and as set forth in the Plan, has been approved.

Accordingly, it is ORDERED that:

- A. the remaining funds that are infeasible to return to investors in the amount of \$1,005.35, and any funds returned to the Fair Fund in the future that are infeasible to return to investors, shall be transferred to the Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934, 15 U.S. Code § 78u-6(g)(3);
- B. the Fund Administrator, Nancy Burton, is discharged; and
- C. the Fair Fund is terminated.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.<sup>16</sup>

Vanessa A. Countryman  
Secretary

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<sup>16</sup> 17 C.F.R. § 200.30-4(a)(21)(vii).