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### Fisker's Capital Fundraiser Loses \$4.5 Million Case, Is Reportedly Removed

Submitted by [Paul Chesser \(bios/paul-chesser\)](#) on Tue, 06/19/2012 - 10:25

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equity raiser for troubled electric automaker [Fisker Automotive](#)

<http://nlpc.org/category/keywords/fisker>), which has been the subject of investigations by the Financial Industry Regulatory Authority (FINRA) and [Securities and Exchange Commission](#)

<http://nlpc.org/category/keywords/securities-and-exchange-commission>), has reportedly removed its co-founder and CEO.



Crain's Chicago Business, citing "a company insider," [reported Friday](#) <http://www.chicagobusiness.com/article/20120615/NEWS01/120609829/advanced-equities-boots-ceo-after-sec-investigation?CSEdit=1>) that [Advanced Equities Inc.](#) <http://nlpc.org/category/keywords/advanced-equities>) has reached an agreement with Dwight Badger for him to leave the investment firm. The separation follows a [demand](#) (<http://www.reuters.com/article/2012/05/21/finra-advancedequities-dUSL1E8GLA1320120521>) by a FINRA arbitration panel for Advanced Equities to pay \$4.5 million to one of its former brokers, John Galinsky, over breach of contract claims. Galinsky brought his complaint against the firm, Badger, and his co-founding partner, Keith Daubenspeck.

"The panel finds that Respondents exhibited a reckless disregard for the warrant rights of the broker and breached their fiduciary duties to the broker," the [FINRA dispute resolution](#) <http://finraawardsonline.finra.org/viewdocument.aspx?DocNB=58367>) said.

Advanced Equities raised the financing for Fisker, which has boasted that it has received more than \$1 billion in private investment. The Chicago-based venture capital investment bank says it specializes in late-stage equity financing, raising funds to "bridge the gap between venture money and traditional corporate finance." One of the venture firms that Advanced Equities builds "bridges" from is the Silicon Valley venture capital firm [Kleiner, Perkins, Caufield and Byers](#) (<http://nlpc.org/category/keywords/kleiner-perkins>), which has strong ties to the [Obama administration](#) <http://nlpc.org/category/people/president-obama>), boasts former Vice President [Al Gore](#) (<http://nlpc.org/category/people/al-gore>) as a senior partner, and highlights Green companies as one sector where it focuses technology investments. Fisker was granted a \$529 million loan guarantee by the [Department of Energy](#) (<http://nlpc.org/category/keywords/department-energy>), but after several problems with the release of its \$102,000 Karma model, the loan was [suspended](#) (<http://nlpc.org/stories/2012/02/08/many-unanswered-questions-surround-fisker-lavoffs>) after \$193 million was delivered to the company.

Galinsky sought relief from FINRA over commissions he failed to receive from Advanced Equities for his efforts in raising capital for Arbinet, Alien Technology, Infinera, Force10 Networks, Peregrine Semiconductor,

Motricity Inc., [Bloom Energy](http://nlpc.org/category/keywords/bloom-energy) (<http://nlpc.org/category/keywords/bloom-energy>), and other unspecified companies. Bloom Energy, a fuel cell manufacturer, was Kleiner Perkins's first clean technology investment and their ties remain close. In April NLPC [reported](http://nlpc.org/stories/2012/04/09/apples-fuel-cell-project-presents-conflict-interest-al-gore) (<http://nlpc.org/stories/2012/04/09/apples-fuel-cell-project-presents-conflict-interest-al-gore>) that Gore, also a director for [Apple Inc.](http://nlpc.org/category/keywords/apple-inc) (<http://nlpc.org/category/keywords/apple-inc>), had a conflict of interest because the computer maker contracted with Bloom Energy to build a [mostly fuel cell plant](http://nlpc.org/stories/2012/04/10/al-gore-duke-energy-marriage-made-regulation-hell) (<http://nlpc.org/stories/2012/04/10/al-gore-duke-energy-marriage-made-regulation-hell>) adjacent to Apple's data facility in western North Carolina.

Advanced Equities – and Badger and Daubenspeck specifically – were accused in a 2008 *Forbes Magazine* [article](http://www.forbes.com/forbes/2008/0901/048b.html) (<http://www.forbes.com/forbes/2008/0901/048b.html>) of “foisting junky startups on investors.”

“The problem with this picture is that in vaulting (Advanced Equities) to its high perch in the VC world, Daubenspeck and Badger have left a wake of aggrieved customers, furious former employees, lawsuits and more than their share of busted startups,” Forbes reported. “At least 18 former clients have filed arbitration complaints accusing the firm of wrongdoing. Separately, six brokers have alleged that AE stiffed them for millions of dollars.”

Besides the problems with Galinsky, Advanced Equities, Badger and Daubenspeck were [served](http://nlpc.org/stories/2012/03/12/fisker%E2%80%99s-private-fundraisers-face-sec-investigation) (<http://nlpc.org/stories/2012/03/12/fisker%E2%80%99s-private-fundraisers-face-sec-investigation>) in January with [Wells Notices](http://www.seclaw.com/docs/wellsnotice.htm) (<http://www.seclaw.com/docs/wellsnotice.htm>) by enforcement staff from the Chicago office of the [Securities and Exchange Commission](http://nlpc.org/category/keywords/securities-and-exchange-commission) (<http://nlpc.org/category/keywords/securities-and-exchange-commission>). The notices indicate an investigation is underway, and the subjects are given the opportunity to submit a response to the allegations before a hearing begins.

And in February an investor [sued Fisker and Advanced Equities](http://www.ocregister.com/articles/fisker-157642-ocprint-stock-.html) (<http://www.ocregister.com/articles/fisker-157642-ocprint-stock-.html>) for their alleged failure to perform fiduciary duties and for fraud. Daniel Wray alleged that after he bought \$210,000 of preferred stock between 2009 and 2011, in January Fisker and Advanced Equities demanded more than \$83,000 “due to Fisker’s urgent need for equity capital,” or else he would lose privileges that came with his purchase of earlier stock.

The latest development with Fisker’s fundraising calls into greater question the scrutiny the Department of Energy [paid](http://nlpc.org/stories/2012/02/28/obama-supporting-law-firm-advised-failed-fisker-loan) (<http://nlpc.org/stories/2012/02/28/obama-supporting-law-firm-advised-failed-fisker-loan>) law group [Debevoise and Plimpton](http://nlpc.org/category/keywords/debevoise-and-plimpton) (<http://nlpc.org/category/keywords/debevoise-and-plimpton>) \$1.8 million in [Recovery Act](http://nlpc.org/category/keywords/recovery-act) (<http://nlpc.org/category/keywords/recovery-act>) funds to execute. The international firm was to provide legal advice, conduct due diligence, and review documents for two loans – Fisker’s and another \$5.9 million guarantee to [Ford Motor Company](http://nlpc.org/category/keywords/ford-motor-company) (<http://nlpc.org/category/keywords/ford-motor-company>) – from DOE’s [Advanced Technology Vehicles Manufacturing Loan Program](https://lpo.energy.gov/?page_id=43) ([https://lpo.energy.gov/?page\\_id=43](https://lpo.energy.gov/?page_id=43)). You might think Fisker’s miniscule track record as a business and its ties to questionable equity raisers would cause Debevoise and DOE to exercise caution as they awarded taxpayer backing of loans, but apparently not.

Rather, crony socialism instead appears to have won the day. According to data compiled by the [Center for Responsive Politics](http://www.opensecrets.org/index.php) (<http://www.opensecrets.org/index.php>), employees of the law firm gave \$199,944 to Sen. Barack Obama for his 2008 presidential campaign, and over the last three congressional election cycles (two cycles for the presidency, including

his year), Debevoise staff members have donated \$746,535 to Democrat candidates and political committees, including \$284,420 to the Obama campaign. Republican candidates received far less. Also, Debevoise's media relations manager, Suzanne Elio, is a former Democratic National Committee fundraiser, and top lawyer David Rivkin reportedly served on President Obama's National Finance Committee, even hosting a fundraiser for presidential candidate Obama in his home in 2007.

Meanwhile employees of Kleiner Perkins have donated \$2.6 million to candidates and political action committees, favoring Democrats over Republicans by a very wide margin. Also, throughout 2009 and 2010 Kleiner Perkins spent \$50,000 per quarter lobbying Congress on legislation that was heavy-laden with renewable energy government incentives, such as the Recovery Act, the American Clean Energy and Security Act, the Clean Energy Jobs and American Power Act, and various climate and energy bills. Fisker [also lobbied](http://www.futureofcapitalism.com/2009/09/fiskers-lobbyists) (http://www.futureofcapitalism.com/2009/09/fiskers-lobbyists) Congress, the White House and the Departments of Energy and Defense – spending \$190,000 in 2009 – to seek funds through (the) Advanced Technology Vehicles Manufacturing Loan Program.

It all appeared to be plenty for Debevoise and DOE to gloss over the dubious characters who raised money for Kleiner Perkins's projects, especially Fisker and Bloom Energy. With hundreds of millions of taxpayer dollars and a "green energy" agenda at stake, why bother with such details?

*Paul Chesser is an associate fellow for the National Legal and Policy Center.*