UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81449 / August 21, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-16175

In the Matter of **KENNETH C. MEISSNER, JAMES DOUG SCOTT, and MARK S. "MIKE" TOMICH,** **Respondents.**	**NOTICE OF PROPOSED PLAN OF DISTRIBUTION AND OPPORTUNITY FOR COMMENT**

Notice is hereby given, pursuant to Rule 1103 of the United States Securities and Exchange Commission's ("Commission") Rules on Fair Fund and Disgorgement Plans ("Rules"), 17 C.F.R. § 201.1103, that the Division of Enforcement (the "Division") has submitted to the Commission a proposed plan of distribution ("Distribution Plan") for the distribution of monies paid by the Respondents in the above-captioned matter.

On September 25, 2014, 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 and Section 9(b) of the Investment Company Act of 1940 (the "Administrative Order") [1] against Kenneth C. Meissner ("Meissner"), James Doug Scott ("Scott"), and Mark S. "Mike" Tomich ("Tomich") (collectively, the "Respondents"). In the Administrative Order, the Division of Enforcement (the "Division") alleged that from August 2011 to January 2013, Gary Snisky ("Snisky") recruited the Respondents to solicit prospective investors with false promises of no-risk, profitable alternatives to traditional annuities, when in fact, Snisky made no legitimate investments with investor funds. None of the Respondents was registered with the Commission as a broker or associated with a registered broker-dealer during this time.

On December 23, 2014, the Commission accepted Tomich's settlement offer and issued an Order Making Findings and Imposing Remedial Sanctions and a Cease-And-Desist Order Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 and Section 9(b) of the Investment Company Act of 1940 as to Mark S. "Mike" Tomich (the "Settled Order") [2] to which Tomich consented without admitting or denying the findings, except as to jurisdiction and

[1] Exchange Act Rel. No. 73226 (Sept. 25, 2014).
[2] Exchange Act Rel. No. 73925 (Dec. 23, 2014).

for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523. In the Settled Order, the Commission found that Tomich willfully violated Section 15(a) of the Exchange Act. The Commission ordered Tomich to pay disgorgement of $48,327.00, prejudgment interest of $2,976.87, and a civil penalty of $48,000.00. The Settled Order provides that the Commission may distribute the penalties collected, if in its discretion, it establishes a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended.

By Initial Decisions filed on April 7, 2015 and August 4, 2015, respectively,[3] an Administrative Law Judge ("ALJ") adjudicated the allegations against Meissner and Scott on motions for summary disposition filed by the Division. In both, the ALJ found the respondent willfully violated Section 15(a)(1) of the Exchange Act. The ALJ ordered Meissner to disgorge $19,268.70, and ordered Scott to disgorge $26,297.84 and pay prejudgment interest of $2,294.22 and a civil penalty of $15,000. By orders issued on May 20, 2015 and September 28, 2015, respectively, the Initial Decisions became final and effective.[4]

On December 9, 2016, the Commission appointed Damasco & Associates LLP ("Damasco"), a certified public accounting firm located in Half Moon Bay, California, as tax administrator to administer tax-related obligations that funds collected in the captioned Administrative Proceeding may incur as a Qualified Settlement Fund under the Department of the Treasury Regulation § 1.468B-1.[5]

On August 14, 2017, the Commission established a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, to distribute funds collected from the Respondents.[6]

OPPORTUNITY FOR COMMENT

Pursuant to this Notice, all interested persons are advised that they may obtain a copy of the Distribution Plan from the Commission's public website at http://www.sec.gov/litigation/fairfundlist.htm. Interested persons may also obtain a written copy of the Distribution Plan by submitting a written request to Catherine E. Pappas, Esq., United States Securities and Exchange Commission, One Penn Center, 1617 JFK Blvd., Ste. 520 Philadelphia, PA 19103. All persons who desire to comment on the Distribution Plan may submit their comments, in writing, no later than thirty (30) days from the date of this Notice:

1. to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090;

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[3] Initial Decision Rel. Nos. 768 (Apr. 7, 2015) and 850 (Aug. 4, 2015), respectively.
[4] Exchange Act Rel. Nos. 75005 (May 20, 2015) and 76001 (Sept. 28, 2015), respectively.
[5] Exchange Act Rel. No. 79522 (Dec. 9, 2016). Damasco & Associates LLP is now part of Miller Kaplan Arase LLP. *See* Notice of Name Change of Appointed Tax Administrator, Exchange Act Rel. No. 81064 (June 30, 2017).
[6] Exchange Act Rel. No. 81385 (Aug. 14, 2017).

2. by using the Commission's Internet comment form (http://www.sec.gov/litigation/admin.shtml); or

3. by sending an e-mail to rule-comments@sec.gov.

Comments submitted should include "Administrative Proceeding File No. 3-16175" in the subject line. Comments received will be publicly available. Persons should submit only information that they wish to make publicly available.

THE DISTRIBUTION PLAN

As of July 24, 2017, the Fair Fund holds approximately $101,000 in disgorgement, prejudgment interest, and penalties paid by or collected from the Respondents, less administrative expenses and taxes. Pursuant to Rule 1102(a) of the Rules, 17 C.F.R. § 201.1102(a), the Distribution Plan proposes to transfer all funds currently in the Fair Fund, and additional funds collected from the Respondents, less any outstanding taxes and expenses, to the Court Registry Investment System account established in the related criminal action, *United States v. Snisky*, No.13-cr-00473-RM (D. Colo.) (the "Criminal Action"), for distribution to harmed investors in accordance with the restitution process in the Criminal Action.[7]

By the Commission.

Brent J. Fields
Secretary

[7] In accordance with Rule 1102(a), the allegations in the Criminal Action arise from substantially similar facts as those alleged in the Administrative Order.