

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

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 86330 / July 8, 2019**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-18473**

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**In the Matter of**

**VISIUM ASSET MANAGEMENT, LP**

**Respondent.**

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**ORDER APPROVING PLAN OF  
DISTRIBUTION**

**I.**

On May 8, 2018, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order<sup>1</sup> against Visium Asset Management, LP (“Visium”). According to the Order, from at least July 2011 to December 2012, Visium portfolio managers Christopher Plaford (“Plaford”) and Stefan Lumiere (“Lumiere”),<sup>2</sup> engaged in a mismarking scheme, using sham broker quotes to falsely inflate the value of securities held by a fund for which Visium acted as investment adviser (the “Credit Fund”). As a result, the Credit Fund reported falsely inflated returns, overstated its net asset value, misclassified certain distressed assets, and paid Visium approximately \$3.15 million in falsely charged performance and management fees. The Commission further found that Visium issued misstatements concerning its valuation policies and procedures, made material misstatements in its Form ADV, and failed to enforce certain written policies and procedures reasonably designed to prevent insider trading. Based on the foregoing, the Commission found that Visium willfully violated Section 17(a) of the Securities Act of 1933 (the “Securities Act”); Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 thereunder; and Sections 204A, 206(1), 206(2), 206(4), and 207 of the Investment Advisers Act of 1940 (the “Advisers Act”) and Rules 206(4)-7 and 206(4)-8 thereunder. The Commission ordered Visium to pay to the Commission disgorgement of \$4,755,223, prejudgment interest of \$720,711, and a civil money penalty of \$4,755,223. Visium has since paid in full.

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<sup>1</sup> Securities Act Rel. No. 10494 (May 8, 2018).

<sup>2</sup> The Commission separately pursued actions against Plaford and Lumiere. See *SEC v. Plaford*, 16-CV-4511 (S.D.N.Y.) (KPF) and *SEC v. Lumiere*, 16-CV-4513 (S.D.N.Y.) (KPF).

By Order dated August 30, 2018, the Commission created a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 (the “Fair Fund”)<sup>3</sup> so that the civil money penalty could be distributed to harmed investors with collected disgorgement and prejudgment interest. The Fair Fund is deposited in an interest-bearing account at the United States Treasury’s Bureau of Fiscal Service and currently holds over \$10.2 million.

By Order dated November 16, 2018, the Commission appointed KCC, LLC as the fund administrator for the Fair Fund and set the administrator’s bond amount at \$10,231,157.<sup>4</sup>

On March 25, 2019, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment (“Notice”),<sup>5</sup> pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Rules”).<sup>6</sup> The Notice advised all interested persons that they may obtain a copy of the proposed plan of distribution (the “Proposed Plan”) from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Catherine E. Pappas, Senior Advisor, United States Securities and Exchange Commission, One Penn Center, 1617 JFK Blvd., Ste. 520, Philadelphia, PA 19103. All persons who desired to comment on the Proposed Plan were to submit their comments, in writing, no later than April 24, 2019. The Commission received one substantive comment during the comment period.<sup>7</sup>

After careful consideration, the Commission has determined to approve the Proposed Plan without modification.

#### **A. Public Comment on the Proposed Plan**

Jack Wiener, Esq. submitted a letter dated April 22, 2019, objecting to a claimed misstatement in the Proposed Plan.<sup>8</sup> According to Mr. Wiener, the Proposed Plan incorrectly states that the Commission determined that Visium, through two of its portfolio managers, engaged in a mismarking scheme. Mr. Wiener claims that the Commission found only that two employees of Visium, and not Visium itself, engaged in the scheme. Mr. Wiener requests that the claimed misstatement be remedied so that the Proposed Plan does not inadvertently spread a material misstatement and so that any related determinations be made properly.

The Commission has considered this objection and concludes that there is no misstatement in the Proposed Plan. By the Order, the Commission held Visium responsible for the mismarking scheme perpetrated by its employees, finding, among other things, that, as a

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<sup>3</sup> Order Establishing Fair Fund, Exchange Act Rel. No. 83998 (Aug. 30, 2018).

<sup>4</sup> Order Appointing Fund Administrator and Setting Administrator Bond Amount, Exchange Act Rel. No. 84608 (Nov. 16, 2018).

<sup>5</sup> Exchange Act Rel. No. 85403 (Mar. 25, 2019).

<sup>6</sup> 17 C.F.R. § 201.1103.

<sup>7</sup> On or about April 23, 2019, the Commission received two additional letters in response to the Notice, neither of which substantively commented on the Proposed Plan. These letters are publicly available at <https://www.sec.gov/comments/3-18473/3-18473.htm>.

<sup>8</sup> Although Mr. Wiener does not specify his interest in the Fair Fund or the Plan in his April 22, 2019 letter, in a letter to the Commission dated April 23, 2019, Mr. Wiener indicates that he is writing on behalf of certain investors claiming eligibility for a distribution under the Proposed Plan. See note 7, above.

result of the mismarking scheme, Visium misclassified certain assets and made misstatements in 2012 and 2013 filings with the Commission. For this and other misconduct, the Commission charged Visium with violations of the antifraud provisions of the Securities Act, the Exchange Act, and the Advisers Act.

**B. Approval of the Proposed Plan**

For the reasons stated above, the Commission finds that the Proposed Plan should be approved without modification (the “Plan”).

**II.**

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Rules,<sup>9</sup> that the Plan is approved, and it shall be posted simultaneously with this Order on the Commission’s website at [www.sec.gov](http://www.sec.gov).

By the Commission.

Vanessa A. Countryman  
Secretary

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<sup>9</sup> 17 C.F.R. § 201.1104.