

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PETER N. BRANT,

Defendant.

Civil No. 1:05-cv-00453 (AK)

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S NOTICE OF MOTION,
MOTION AND MEMORANDUM IN SUPPORT OF ORDER FOR DISTRIBUTION OF
DISTRIBUTION FUND**

NOTICE

PLEASE TAKE NOTICE, that based upon the accompanying Affidavit of Michael S. Lim ("Affidavit") in Support of the Securities and Exchange Commission's ("Commission") Motion for Distribution of Distribution Fund executed on December 31, 2015, the Proposed Order submitted herewith, and all prior proceedings had herein, and pursuant to the Plan of Distribution approved by this court on November 6, 2015 ("Distribution Plan"), Plaintiff Securities and Exchange Commission will move this Court, at a date and time to be determined by the Court, before the Honorable Judge Alan Kay, at the United States Courthouse for the District of Columbia, at 333 Constitution Ave, NW, Washington, D.C. 20001, for an order:

1. Directing the Plan Administrator to:
 - a. Distribute the Distribution Fund and any future funds received into the Distribution Fund, less any reserve for tax obligations and fees and expenses

of the Tax Administrator (“Net Distribution Fund”), to each Eligible Recipient in accordance with the terms of the Distribution Plan.

MOTION

In accordance with the Distribution Plan approved by this Court on November 6, 2015, the Commission respectfully requests that the Court enter an Order:

1. Directing the Plan Administrator to:
 - a. Distribute the Distribution Fund and any future funds received into the Distribution Fund, less any reserve for tax obligations and fees and expenses of the Tax Administrator (“Net Distribution Fund”), to each Eligible Recipient in accordance with the terms of the Distribution Plan.

MEMORANDUM

Procedural Background

On March 3, 2005, the Commission filed a Complaint, alleging, *inter alia*, that Defendant Peter N. Brant (“Brant”), between December 1998 and May 2000, in violation of a previous Commission order barring him from the securities industry, acted as an investment adviser to six customers of Deutsche Banc Alex Brown, Inc. Brant misappropriated client funds for his personal use, made unsuitable and unauthorized investment decisions, traded in speculative stocks and churned accounts. As a result of his fraud, Brant obtained at least \$173,402.80 and caused his clients’ accounts to drop dramatically in value.

On March 4, 2005, the Court entered Final Judgment against Brant. Brant was ordered liable for disgorgement of \$173,402.80 together with prejudgment interest in the amount of \$69,461.08, for a total of \$242,863.88. Brant was further ordered to pay a civil penalty in the amount of \$3 million pursuant to Section 20(d) of the Securities Act of 1933 [15 U.S.C. §

77t(d)], Section 21(d) of the Securities Exchange Act of 1934 [15 U.S.C. § 78u(d)], and Section 209(e) of the Investment Advisers Act of 1940 [15 U.S.C. § 80b-9(e)] within ten business days after entry of the Final Judgment. Brant failed to make any payments.

In 2011, Commission staff reviewed Brant's financial status and found that Brant was then the CEO and majority stockholder of a small company doing business as Diversified Advantage Partners, Inc. ("DAG"). Commission staff uncovered bank records which showed DAG paid Brant over \$63,000 for "loans" Brant purportedly made to DAG. Brant deposited these funds in his personal bank account at JP Morgan Chase Bank and then transferred those sums into an E*Trade Securities brokerage account in his name. In June 2012, the SEC applied for post-judgment writs of garnishment on E*Trade Securities LLC ("E*Trade") and JP Morgan Chase Bank, N.A. ("JP Morgan"), and E*Trade and JP Morgan were directed to withhold and retain any property in its possession, custody, or control in which Brant had an interest. The garnished funds were then released and the cash value of the garnished funds was placed in Brant's attorney's trust account. Between June 2012 and November 2012, Brant made various offers of compromise to the Commission, which the Commission rejected. In November 2012, the Commission accepted Brant's compromise offer to pay \$300,000 toward disgorgement by relinquishing his claim to all of the escrowed funds (in the amount of \$91,981.43) and paying the remaining \$208,018.57 in five equal annual installments in full satisfaction of the judgment.

On December 20, 2012, the Court ordered funds in the amount of \$91,981.43 held in Brant's counsel's escrow account to be paid to the SEC's Office of Financial Management. To date, approximately \$216,525.56 has been paid to the Commission.

Disbursement of Distribution Fund

Pursuant to the Distribution Plan, the Plan Administrator has prepared and submitted to the Commission staff a list of Eligible Recipients and the amount of the Net Distribution Fund to be distributed to that Eligible Recipient (“Eligible Recipient’s *Pro Rata* Share”).¹ The Final Payee List and the Affidavit have been reviewed by the undersigned Commission Counsel who has no objections.

WHEREFORE, for all the foregoing reasons, the Commission respectfully requests that this Court enter the Proposed Order and grant such other relief as the Court deems just and proper.

Dated: December 31, 2015

Respectfully submitted,

/s/ Michael Shueyee Lim
Michael Shueyee Lim
Attorney for Plaintiff
Securities and Exchange Commission
100 F St, N.E.
Washington, D.C. 20549-5631
Tel: (202) 551-4659
Fax: (202) 572-1372
Email: Limm@sec.gov

¹ The Final Payee List shall, upon request, be made available to the Court under seal.