

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 1:14-CV-04132-ER

SECURITIES AND EXCHANGE  
COMMISSION,  
**Plaintiff,**

v.

LUIS CHANG  
and  
EVERBRIGHT DEVELOPMENT  
OVERSEAS LIMITED,

**Defendants.**

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ELECTRONICALLY FILED  
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DATE FILED: 6/21/16

**~~PROPOSED~~ ORDER TO ESTABLISH A FAIR FUND AND APPOINT A  
DISTRIBUTION AGENT**

The Court having reviewed Plaintiff Securities and Exchange Commission's (the "Commission") Motion and Memorandum of Law in Support of an Order to Establish a Fair Fund and Appoint a Distribution Agent, and for good cause shown,

**IT IS HEREBY ORDERED:**

1. The Motion to Establish a Fair Fund and Appoint a Distribution Agent is **GRANTED.**
2. A Fair Fund is hereby created pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, 15 U.S.C. §7246(a). The Fair Fund shall include the entire balance currently in the Court's registry account established by the Clerk of the Court for this matter, including any accrued interest.

3. Rust Consulting, Inc. (“Rust”), with a principal office located at 625 Marquette Ave., Suite 880, Minneapolis, MN 55402, is hereby appointed to serve as the Distribution Agent over the Fair Fund.

4. As Distribution Agent, Rust is hereby ordered to develop a Distribution Plan acceptable to the Commission which must be submitted to and approved by the Court; implement the Court-approved Distribution Plan including determining the identities of injured investors and investor harm and establishing a claims process to evaluate and verify claims pursuant to the Distribution Plan, oversee the administration of the Distribution Fund including fielding inquiries from investors and overseeing the ultimate distribution of the Distribution Fund; prepare accountings, and maintain accurate records concerning the Distribution Fund.

3. Rust shall coordinate with the Court-appointed Tax Administrator, Damasco & Associates, LLP, to ensure that the Distribution Fund, a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code, and related regulations, 26 C.F.R. §§1.468B-1 through 5, complies with all related legal and regulatory requirements, including but not limited to, satisfying any reporting or withholding requirements imposed on distributions from a QSF.

4. Rust does not have any conflicts of interest that would keep it from fully and fairly exercising its duties as the Distribution Agent for the Fair Fund. If appointed by the Court, Rust will take affirmative steps to ensure that any entities or individuals engaged by Rust also have no such conflicts of interests.

5. Within 20 days after the end of each calendar quarter, the Distribution Agent will submit a report to SEC staff showing an accounting of all assets in the Fair Fund, in a format to be provided by the Commission staff. The accounting shall inform the Commission

of the activities and status of the Fair Fund during the reporting period, and shall specify, at a minimum, the location of the account(s) comprising the Fair Fund, the value of those account(s), all monies earned or received into the account(s), monies distributed to claimants under the Distribution Plan, and any monies expended to satisfy fees, costs, taxes and other expenses incurred. At the conclusion of the distribution, the Distribution Agent will coordinate with the Tax Administrator to provide Commission staff with a final accounting for the Fair Fund, in a format to be provided by the Commission staff.

6. The Distribution Agent will be entitled to reimbursement and compensation from the Fair Fund, in amounts and at rates not to exceed those outlined in the May 9, 2016 proposal submitted to Commission staff, for the reasonable costs, fees, and other expenses incurred in the performance of its duties. The Distribution Agent will provide Commission counsel with a copy of its request, which shall include supporting documentation to justify the expenses or services rendered, and the detail of the charges. The documentation must be submitted to the Commission staff at least fifteen days before the Commission makes a request for reimbursement and compensation to the Court. All reimbursement and compensation requests must be approved by the Court before payment from the Fair Fund may be made. No fees or expenses will be paid from the Fair Fund without Court approval.

7. The Distribution Agent is entitled to rely on all outstanding rules of law and Court Orders.

8. The Court will retain exclusive jurisdiction over the distribution, including, but not limited to, claims against the Distribution Agent asserting liability for violation of any duty imposed by the Distribution Plan or other Court Order.

9. The Distribution Agent may be removed *sua sponte* at any time by the Court

or upon motion of the Commission and replaced with a successor. In the event Rust decides to resign, it will first give written notice to the Court and to the Commission's counsel of such intention, and the resignation, if permitted, will not be effective until the Court appoints a successor. The Distribution Agent will then follow instructions from the Court or a successor for turning over the management of the Fair Fund, including records maintained by the Distribution Agent in connection with its duties and information relating to Fair Fund monies and property. Unless otherwise ordered, the Distribution Agent will, within 30 days' notice of resignation or removal, file with the Court a distribution status report and provide a full accounting in accordance with Paragraph 5.

Dated: June 21, 2016

  
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EDGARDO RAMOS  
UNITED STATES DISTRICT JUDGE

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