

(Remaining) Counsel of Record:

Catherine E. Pappas
One Penn Center
1617 JFK Blvd., Ste. 520
Philadelphia, Pa. 19103
Telephone: (215) 597-3100
Facsimile: (215) 597-2740
**(Counsel for Securities and
Exchange Commission)**

Kristin J. Telsey, Esquire
or Assigned Counsel
Earp Cohn P.C.
20 Brace Road, 4th Floor
Cherry Hill, NJ 08034
856-354-7700
**(Counsel for David J. Greth,
Administrator of the Estate of
Donald Matthew Greth)**

**UNITED STATES DISTRICT COURT
for the
DISTRICT OF NEW JERSEY**

	:	
SECURITIES AND EXCHANGE	:	05-CV-5040 (RMB)
COMMISSION,	:	
	:	Motion Day: May 4, 2020
Plaintiff,	:	
	:	Securities and Exchange Commission’s
v.	:	Motion for an Order Approving
	:	Final Accounting, Discharging
THE ESTATE OF DONALD	:	Distribution Agent, and Related
MATTHEW GRETH, David J.	:	Relief
Greth, Administrator, et al.	:	
	:	
Defendants.	:	
	:	

The Securities and Exchange Commission (“SEC”) respectfully requests that the Court enter an Order approving the final accounting attached to the Memorandum as Exhibit A; directing the SEC to remit all funds remaining in the Distribution Fund after payment of Fund

Expenses to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 [15 U.S. Code § 78u-6(g)(3)]; directing any funds returned to the Distribution Fund in the future transferred to the SEC for remission to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 [15 U.S. Code § 78u-6(g)(3)]; and discharging the Distribution Agent.

The Estate of Donald Matthew Greth, represented by its Administrator, David J. Greth, does not oppose this motion.

Dated: April 8, 2020

Respectfully submitted,

s/ Catherine E. Pappas
Catherine E. Pappas
Counsel for Plaintiff,
Securities and Exchange Commission
1617 JFK Blvd., Ste. 520
Philadelphia, Pa. 19103
Telephone: (215) 597-3100
Facsimile: (215) 597-2740
pappasc@sec.gov

TABLE OF CONTENTS

I. SUMMARY..... 1

II. BACKGROUND..... 1

 A. Procedural History..... 1

 B. The Distributions 2

 1. The 2007 Distribution 2

 2. The 2018 Distribution 2

III. THE DISTRIBUTION IS COMPLETE AND THE DISTRIBUTION FUND IS ELIGIBLE FOR TERMINATION 3

IV. CONCLUSION 4

TABLE OF AUTHORITIES

Statute

Section 21F(g)(3) of the Exchange Act, 15 U.S.C. § 78u-6(g)(3).....3

I. SUMMARY

Plaintiff Securities and Exchange Commission (“SEC”) respectfully submits this memorandum in support of its Motion for an Order Approving Final Accounting, Discharging Distribution Agent, and Related Relief (the “Motion”). This relief, if granted, will close the distribution in this matter.

II. BACKGROUND

A. Procedural History

On October 21, 2005, the SEC filed this action (the “Civil Action”) against Donald Matthew Greth (“Greth”) and Brenda B. Melton (“Melton”) (collectively, the “Defendants”). In its Complaint, the SEC alleged that, from at least June 2003 through 2005, Greth and Melton engaged in a fraudulent scheme to deceive investors by misrepresenting and omitting material facts in connection with the offer and sale of shares in a fictitious “Christian” investment fund purportedly run by Greth. The SEC further alleged that the Defendants conducted a Ponzi scheme, using money obtained from new investors to pay prior investors and to enrich themselves.

On or about October 30, 2005, Greth died. On January 27, 2006, this Court granted the SEC’s motion to substitute Greth’s estate (the “Estate”) in the place of defendant Greth so that the SEC could pursue its disgorgement remedy against certain frozen assets. Dkt. No. 11. On February 23, 2007, with the consent of the Estate, the Court entered Final Judgment against the Estate (the “Estate Judgment”), ordering the Estate to pay \$1,377,984, comprised of \$1,272,874 in disgorgement and \$105,110 in prejudgment interest. Dkt. No. 26. On May 25, 2007, upon the consent of defendant Melton, given without admitting or denying the allegations in the Complaint, the Court entered a Final Judgment against Melton (the “Melton Judgment”), in relevant part

ordering Melton to pay disgorgement and prejudgment interests of \$42,622.16; but waiving all but payment of \$18,981.74 plus any interest accrued in frozen financial accounts. Dkt. No. 41.

B. The Distributions

1. *The 2007 Distribution*

On September 4, 2007, upon the SEC's motion, this Court approved a Plan of Distribution (the "Final Plan", attached as Exhibit A) to distribute the funds collected in (partial) satisfaction of the Estate Judgment and the Melton Judgment. Dkt. No. 63. The Court also appointed the undersigned as distribution agent (the "Distribution Agent"). At the time, the SEC sought to distribute approximately \$554,000, comprised of approximately \$533,000 collected on the Estate Judgment, \$19,000 collected on the Melton Judgment, and \$2,000 in interest. The Final Plan proposed to distribute the collections, net administrative expenses, *pro rata* to defrauded investors, returning to investors approximately 37% of their out-of-pocket losses using a "rising tide" methodology. *See* Dkt. No. 57-1. Ultimately, the Distribution Agent distributed approximately \$513,000 to 230 investors after paying approximately \$42,000 in expenses, including \$35,000 to Estate counsel (the "Prior Distribution"). Dkt. No. 67.

2. *The 2018 Distribution*

Upon notification by David J. Greth, the Administrator of the Estate, of an additional asset of Donald Matthew Greth, the SEC applied to the Court to collect and distribute that asset pursuant to the Final Plan (the "2018 Application"). Dkt. No. 71. Upon this Court's approval (Dkt. No. 73), the SEC caused the disbursement of approximately \$24,000 to more than 200 Eligible

Investors¹. The Distribution Agent monitored the status of all payments issued, which resulted in the distribution of \$22,569.34 to Eligible Investors.

The SEC was unable to make payments to 15 Eligible Investors; the Distribution Agent made reasonable efforts, as defined in the Final Plan, to locate those investors and/or seek their negotiation of payments made, including performing searches for updated addresses through the use of commercial computer databases regularly available to the SEC's Division of Enforcement, and attempting to contact the intended recipient by phone, electronic mail, and through identified relatives. Pursuant to the Final Plan, as modified by the 2018 Application, these unnegotiated and/or undelivered payments are disallowed. Dkt. No. 71-1, page 7.

III. THE DISTRIBUTION IS COMPLETE AND THE DISTRIBUTION FUND IS ELIGIBLE FOR TERMINATION

As further described on the Final Accounting, the Distribution Fund began with \$26,685.76, of which \$22,569.34 was distributed Eligible Investors and \$3,753.65 was expended on Fund Expenses, including administrative fees, expenses, and taxes. *See* Exhibit A, p. 1. The Distribution Fund currently resides in an account at the U.S. Treasury and holds \$362.77. *Id.*

Insofar as the distribution is now complete, the SEC respectfully requests that the Court approve the final accounting included as Exhibit A to this memorandum; direct the SEC to pay any outstanding Fund Expenses and transfer the remainder to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act;² direct any funds returned to the Distribution

¹ Capitalized terms not defined herein are used as defined in the Final Plan.

² Section 21F(g)(3) of the Exchange Act, 15 U.S.C. § 78u-6(g)(3), provides, in relevant part, that any monetary sanction of \$200 million or less collected by the SEC in any judicial action brought by the SEC under the securities laws that is not added to a disgorgement fund or fair fund or otherwise distributed to victims, plus investment income, shall be deposited or credited into the SEC Investor Protection Fund.

Fund in the future to the SEC for remittance to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act; and discharge the Distribution Agent.

IV. CONCLUSION

For the foregoing reasons, the SEC respectfully requests that this Court grant the relief requested in the Motion.

Dated: April 8, 2020

Respectfully submitted,

s/ Catherine E. Pappas
Catherine E. Pappas
Counsel for Plaintiff,
Securities and Exchange Commission
1617 JFK Blvd., Ste. 520
Philadelphia, Pa. 19103
Telephone: (215) 597-3100
Facsimile: (215) 597-2740
pappasc@sec.gov

Att: Exhibit A (Final Accounting)

Exhibit A

Section	Line			Amount	Amount
		CONSOLIDATED FINAL ACCOUNTING REPORT on the CASH BASIS for			
A	1	DISTRIBUTION FUND	David J. Greth Distribution Fund		
	2	SEC Action Number	SEC-P-01308-B		
	3	Case Number	1:05-CV-05040-RMB-AMD		
		Period Covered in this Report:			
	4	From 12/21/2017			
	5	To 4/3/2020			
B		Increases in Fund Balance			
	1	Contributions/Deposits	\$	26,685.76	
	2	Investment/Interest Income		-	
	3	Other - describe		-	
		Subtotal Funds Received		<u>26,685.76</u>	\$ 26,685.76
C		Decreases in Fund Balance			
	1	Gross Distributions to Claimants/Investors Less Returned & Cancelled Checks		<u>(22,569.34)</u>	(22,569.34)
		Distributions to Claimants/Investors, Net			
		Payments to Other than Claimants/Investors:			
	2	Plan Administration Fees and Costs		-	
	3	Tax Administrator Fees and Expenses		(2,752.65)	
	4	Investment/Bank Fees		-	
		Income Tax Payments, Net of Refunds			
	5	Federal		-	
	6	District of Columbia/State		(1,001.00)	
	7	Other - describe		-	
		Subtotal Disbursements		<u>(3,753.65)</u>	
D		Ending Balance			<u><u>\$ 362.77</u></u>

Section Line **SUMMARY OF DETAIL by ACCOUNTS by ACCOUNT MANAGERS for
CONSOLIDATED FINAL ACCOUNTING REPORT on the CASH BASIS for**
A 1 **DISTRIBUTION FUND David J. Greth Distribution Fund**
2 **SEC Action Number SEC-P-01308-B**
3 **Case Number 1:05-CV-05040-RMB-AMD**
Period Covered in this Report:
4 **From 12/21/2017**
5 **To 4/3/2020**

		<u>OFM</u>	<u>Total</u>
B	Increases in Fund Balance		
1	Contributions/Deposits	26,685.76	26,685.76
2	Investment/Interest Income	-	-
3	Other - describe	-	-
	Subtotal Funds Received	<u>26,685.76</u>	<u>26,685.76</u>
C	Decreases in Fund Balance		
1	Distributions to Claimants/Investors, Net	(22,569.34)	(22,569.34)
	Payments to Other than Claimants/Investors:		
2	Plan Administration Fees and Costs	-	-
3	Tax Administrator Fees and Expenses	(2,752.65)	(2,752.65)
4	Investment/Bank Fees	-	-
	Income Tax Payments, Net of Refunds		
5	Federal	-	-
6	District of Columbia/State	(1,001.00)	(1,001.00)
7	Other - describe	-	-
	Subtotal Disbursements	<u>(26,322.99)</u>	<u>(26,322.99)</u>
Trf	Transfers		
1	To Plan Administrator	-	-
2	From Plan Administrator	-	-
3	To Tax Administrator	-	-
4	From Tax Administrator	-	-
5	Between Accounts Held by Account Manager	-	-
6	To OFM	-	-
7	From OFM	-	-
	Subtotal Transfers	<u>-</u>	<u>-</u>
D	Ending Balance	<u><u>362.77</u></u>	<u><u>362.77</u></u>

E Fund Information: Tranches from Inception
See Plan Administrator's exhibit for detail information.

Section Line OFFICE OF MANAGEMENT DETAIL by ACCOUNT for
 CONSOLIDATED FINAL ACCOUNTING REPORT on the CASH BASIS for
A 1 DISTRIBUTION FUND David J. Greth Distribution Fund
 2 SEC Action Number SEC-P-01308-B
 3 AP File No. / Case Number 1:05-CV-05040-RMB-AMD
 Period Covered in this Report:
 4 From 12/21/2017
 5 To 4/3/2020

David J. Greth
 Distribution Fund
 Office of
 Financial
 Management
 "OFM"
 SEC-P-01308-B

	DESCRIPTION	DATE	AMOUNT	TOTAL
B	<u>1</u>			
	<u>CONTRIBUTIONS/DEPOSITS</u>			
	Turnover of Assets	Jan-18	26,685.76	26,685.76
	Total to Line B 1		26,685.76	26,685.76
B	<u>2</u>			
	<u>INVESTMENT/INTEREST EARNINGS</u>			
	Total to Line B 2		-	-
B	<u>3</u>			
	<u>OTHER INCREASES IN FUND BALANCE</u>			
	Total to Line B 3		-	-
C	<u>1</u>			
	<u>DISBURSEMENTS TO INVESTORS</u>			
	Disbursements	2018	(22,649.61)	(22,649.61)
	Canceled Payments	2020	80.27	80.27
	Total to Line C 1		(22,569.34)	(22,569.34)
C	<u>2</u>			
	<u>PLAN ADMINISTRATION FEES and COSTS</u>			
	Total to Line C 2		-	-

Section Line **OFFICE OF MANAGEMENT DETAIL by ACCOUNT for**
CONSOLIDATED FINAL ACCOUNTING REPORT on the CASH BASIS for
A 1 DISTRIBUTION FUND David J. Greth Distribution Fund
2 SEC Action Number SEC-P-01308-B
3 AP File No. / Case Number 1:05-CV-05040-RMB-AMD
Period Covered in this Report:
4 From 12/21/2017
5 To 4/3/2020

**David J. Greth
Distribution Fund
Office of
Financial
Management
"OFM"
SEC-P-01308-B**

	DESCRIPTION	DATE	AMOUNT	TOTAL
C 3	<u>TAX ADMINISTRATOR FEES & BONDS</u>			
	Bonds:			-
	Total Bond Fees Paid		-	-
	Tax Administrator Fees:			
	Admin Fees	2019	(1,441.15)	(1,441.15)
	Admin Fees	2020	(1,311.50)	(1,311.50)
	Total Tax Administrator Fees Paid		(2,752.65)	(2,752.65)
	Total to Line C 3		(2,752.65)	(2,752.65)
C 4	<u>INVESTMENT EXPENSES including</u>			
	<u>BUREAU OF PUBLIC DEBT (BPD) FEES or</u>			
	<u>COURT REGISTRY INVESTMENT SYSTEM (CRIS) FEES</u>			
	Total to Line C 4		-	-
C 5	<u>FEDERAL TAX (PAYMENTS) / REFUNDS</u>			
	Total to Line C 5		-	-
C 6	<u>DISTRICT OF COLUMBIA (DC) & STATE TAX PAYMENTS</u>			
		2019	(1,001.00)	(1,001.00)
	Total to Line C 6		(1,001.00)	(1,001.00)
C 7	<u>OTHER DECREASES IN FUND BALANCE</u>			
	Total to Line C 7		-	-

Section Line OFFICE OF MANAGEMENT DETAIL by ACCOUNT for
 CONSOLIDATED FINAL ACCOUNTING REPORT on the CASH BASIS for
A 1 DISTRIBUTION FUND David J. Greth Distribution Fund
 2 SEC Action Number SEC-P-01308-B
 3 AP File No. / Case Number 1:05-CV-05040-RMB-AMD
 Period Covered in this Report:
 4 From 12/21/2017
 5 To 4/3/2020

David J. Greth
 Distribution Fund

 Office of
 Financial
 Management
 "OFM"

 SEC-P-01308-B

DESCRIPTION	DATE	AMOUNT	TOTAL
-------------	------	--------	-------

Section Line OFFICE OF MANAGEMENT DETAIL by ACCOUNT for
A 1 DISTRIBUTION FUND David J. Greth Distribution Fund
 2 SEC Action Number SEC-P-01308-B
 3 AP File No. / Case Number 1:05-CV-05040-RMB-AMD
 Period Covered in this Report:
 4 From 12/21/2017
 5 To 4/3/2020

David J. Greth
 Distribution Fund
 Office of
 Financial
 Management
 "OFM"
 SEC-P-01308-B

	DESCRIPTION	DATE	AMOUNT	TOTAL
TRF	<u>TRANSFERS BETWEEN ACCOUNTS</u>			
1	To Plan Administrator:			
	Total Transfers to Plan Administrator		-	-
2	From Plan Administrator:			
	Total Transfers from Plan Administrator		-	-
3	To Tax Administrator:			
	Total Transfers to Tax Administrator		-	-
4	From Tax Administrator:			
	Total Transfers from Tax Administrator		-	-
5	Between Accounts Held by this Account Manager:			
	Total Transfers Between Accounts Herein		-	-
	Total Transfers, Net		-	-

Section Line OFFICE OF MANAGEMENT DETAIL by ACCOUNT for
 CONSOLIDATED FINAL ACCOUNTING REPORT on the CASH BASIS for
A 1 DISTRIBUTION FUND David J. Greth Distribution Fund
 2 SEC Action Number SEC-P-01308-B
 3 AP File No. / Case Number 1:05-CV-05040-RMB-AMD
 Period Covered in this Report:
 4 From 12/21/2017
 5 To 4/3/2020

David J. Greth
 Distribution Fund
 Office of
 Financial
 Management
 "OFM"
 SEC-P-01308-B

DESCRIPTION	DATE	AMOUNT	TOTAL
SUM <u>SUMMARY and RECONCILIATION to ENDING ACCOUNT BALANCES</u>			
Total Increases	Section B	26,685.76	26,685.76
Less: Total Decreases	Section C	(26,322.99)	(26,322.99)
Total Transfers Between Accounts	TRF	-	-
Ending Balance		362.77	362.77

E Fund Information: Tranches from Inception

Distributions		Gross Payments	Net Distributed
# Issued	Date		
1	4/18/2018	(22,649.51)	(22,649.51)
Total		(22,649.51)	(22,649.51)

H Prepared by:

1 Office of Financial Management, Enforcement Treasury Operations Branch
 (entity name)

2 Lewis, Warren Digitally signed by Lewis, Warren
 (signature) Date: 2020.04.03 17:14:39 -04'00'

3 Chief, Enforcement Treasury Operations Branch
 (title)

Warren A. Lewis
 (printed name)

April 3, 2020
 (date)