

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:18-cv-00055-WWE
)	
DAVID S. HADDAD, TRAFALGAR)	
SQUARE RISK MANAGEMENT, LLC,)	
and NEW ENGLAND RE, LLC)	
)	
Defendants.)	

[PROPOSED] PLAN OF DISTRIBUTION

A. INTRODUCTION

1. Plaintiff Securities and Exchange Commission (the “Commission” or “SEC”) submits this Proposed Plan of Distribution for the Fair Fund (the “Distribution Plan”) to distribute disgorgement, prejudgment interest, and civil penalty paid in this matter, less a reserve for taxes and fees of approximately \$20,000, to twenty-eight defrauded investors who have been identified as having suffered a net harm as a result of Defendants’ conduct as described in the Complaint and Final Judgments (“Eligible Investors”).

2. The Commission filed a complaint against Defendants David S. Haddad (“Haddad”), Trafalgar Square Risk Management, LLC (“Trafalgar”), and New England RE, LLC (“New England RE”) (collectively “Defendants”) on January 11, 2018 (“Complaint”) (Dkt. 1). In summary, the Commission alleged in the Complaint that Haddad operated two companies in the re-insurance industry, Trafalgar and New England RE. Haddad allegedly began raising money from investors through the offer and sale of unregistered securities in Trafalgar in or

before 2012. He began offering unregistered New England RE securities to investors in late 2014 and, through the Trafalgar and New England RE offerings, raised at least \$2.5 million from at least 29 separate investors.¹

3. The Complaint alleges that, while making these offers and sales, Haddad, individually and on behalf of Trafalgar and New England RE, made various misleading claims to investors about the use of their funds. According to the SEC's Complaint, Haddad led investors to believe that their funds would be used to build and grow Trafalgar and New England RE when, in fact, Haddad diverted a significant portion of the investors' money for his own purposes, including the purchase of multiple homes, art and antiques, entertainment, and expenses of a dog rescue charity founded by Haddad. Haddad also used some investors' money to make Ponzi-like payments to other investors. The Complaint alleges that the money Haddad used to support his lifestyle far exceeded Trafalgar's revenues.

4. The Commission alleged that the Defendants violated Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, thereunder, 17 C.F.R. § 240.10b-5. Without admitting or denying the allegations of the Complaint, Haddad, Trafalgar, and New England RE consented to the entry of final judgments ("Final Judgments") permanently enjoining them from violations of these laws.

5. The Court entered the Final Judgments against the Defendants on January 18, 2018 (Dkt. Nos. 9, 10, and 11). The Final Judgments held that Haddad and Trafalgar were jointly and severally liable to pay a total of \$644,514.26 in disgorgement and prejudgment

¹ One of the twenty-nine investors has not been identified as having suffered a net harm, and thus is not considered to be an Eligible Investor under this Distribution Plan. Additionally, several of the investors invested in both Trafalgar and New England RE securities. Such investments are being counted separately, and as separate investors for purposes of this Distribution Plan.

interest, pursuant to a payment schedule consisting of four installments over a nine-month period. The ordered amount of \$644,514.26 consists of \$619,382.43 in disgorgement plus prejudgment interest of \$25,131.83. Further, Haddad and New England Re were ordered to pay, jointly and severally, a total of \$271,672.66 pursuant to a payment schedule over a one-year period. The ordered amount of \$271,672.66 consists of \$269,080 in disgorgement, plus prejudgment interest of \$2,592.66. In addition, Haddad was ordered to pay a civil monetary penalty of \$181,071 within a year of entry of the Final Judgments and was permanently barred, prohibiting him from acting as an officer or director of a publicly-traded company. The Final Judgments also provide that Haddad receive a permanent injunction prohibiting him from providing information to, soliciting, or accepting investments or funds from any investor or potential investors regarding the offer or sale of any securities issued by any entity that he directly or indirectly owns, controls, consults for, or is employed by, unless he first provides such person with a written disclosure regarding his prior regulatory history and maintains written records of such disclosures.

6. To date, the Commission has received two payments from Defendants Haddad and Trafalgar pursuant to the Final Judgments: the Commission received a payment on March 3, 2018 in the amount of \$530,000, and a payment on April 20, 2018 in the amount of \$114,514.26. These amounts are currently being held by the Commission under the case name designation “SEC v. Haddad, et al.”

7. A motion to establish a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, was filed herewith this Distribution Plan. The Fair Fund (the “Trafalgar Fair Fund” or the “Fair Fund”) shall consist of all funds received or otherwise collected by the Commission in satisfaction of the Defendants’ ordered disgorgement,

prejudgment interest, and civil penalty amounts, plus accrued interest thereon. Additional amounts which are collected or otherwise received by the Commission in connection with this matter will be added to the Fair Fund. The Commission now respectfully requests the Court to establish a Fair Fund and submits this Distribution Plan for distributing the Fair Fund.

8. The Fair Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code, 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5.

9. A motion for the appointment of a Tax Administrator was filed herewith this Distribution Plan. This Distribution Plan proposes that Miller Kaplan Arase LLP, a certified public accounting firm, which acquired Damasco & Associates LLP (“Miller Kaplan”), with one of their offices located in San Francisco, California, as Tax Administrator, to execute all income tax reporting requirements, including the preparation and filing of tax returns, with respect to funds under this Court's jurisdiction in this case. Pursuant to the proposed Order, the Tax Administrator is required to pay taxes in a manner consistent with the treatment of the Fair Fund as a QSF, and is to be compensated for the tax services provided.

10. A motion for the appointment of a Distribution Agent was filed herewith this Distribution Plan. This Distribution Plan proposes that Sondra Panahi, Trial Counsel, Office of Distributions, within the Commission’s Division of Enforcement, is appointed as Distribution Agent for the distribution proposed herein. The Distribution Agent will implement the distribution of money in the Fair Fund to the Eligible Investors who were harmed by the violations alleged in the Complaint. The Distribution Agent will carry out this task in coordination with the staff of the Commission, pursuant to this Distribution Plan, and subject to oversight by the Court.

11. This Distribution Plan sets forth the method and procedures for distributing the Fair Fund in this matter. The Commission proposes to distribute the Fair Fund to the twenty-eight Eligible Investors.

B. DEFINITIONS

This Distribution Plan sets forth the method and procedures for distributing the Fair Fund created in this matter. As used in this Distribution Plan, the following definitions shall apply:

12. **“Affiliate”** shall have the meaning set forth in Section 101(2) of Title 11 of the United States Code, 11 U.S.C. § 101(2).

13. **“Days”** shall mean calendar days, unless specified otherwise.

14. **“Distribution Agent”** means Sondra Panahi, Trial Counsel, Office of Distributions, within the Commission’s Division of Enforcement. The Distribution Agent will implement the distribution of money in the Fair Fund to the Eligible Investors who were harmed by the violations alleged in the Complaint. The Distribution Agent will carry out this task in coordination with the staff of the Commission, pursuant to this Distribution Plan, and subject to oversight by the Court.

15. **“Distribution Plan”** shall mean this distribution plan as approved by the Court.

16. **“Eligible Investors”** shall mean the twenty-eight (28) investors determined by the Distribution Agent to be eligible for a distribution from the Fair Fund as a result of their purchases of Trafalgar and/or New England RE securities, and as provided in the blind charts contained within Paragraph 38 of this Distribution Plan.² Upon the Court’s request, the identification of Eligible Investors will be made available to the Court or otherwise provided under seal. Excluded from the Eligible Investors are:

² The names of the Eligible Investors are not provided in the public documents in order to protect their privacy.

- a. Any person who was directly involved in the conduct as described in the Commission's complaint;
- b. Any individual Defendant in this action, or any Defendant's Affiliates, subsidiaries, or controlled entities directly involved in the conduct described in the Commission's Complaint;
- c. Any employee or former employee of any Defendant, or any of Defendant's Affiliates, subsidiaries, or controlled entities, who has been terminated for cause in connection with the violations alleged in the Commission's Complaint or any related Commission action, or who was otherwise terminated or resigned in connection with the violations alleged in the Complaint or any related Commission action;
- d. Any Affiliates, assigns, creditors, heirs, distributees, spouses, parents, children, subsidiaries, or controlling entities of any of the foregoing Persons or entities described in Paragraph 16a – 16c above; and
- e. Any Person who assigned their right to obtain a recovery in the Commission's action against any of the Defendants; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance, devise or operation of law.

17. **“Fair Fund” or “Trafalgar Fair Fund”** means all funds received or otherwise collected by the Commission in satisfaction of the Defendants' ordered disgorgement, prejudgment interest, and civil penalty amounts in this matter, plus accrued interest thereon. Additional amounts which are collected or otherwise received by the Commission in connection with this matter will be added to the Fair Fund.

18. **“Net Harm Amount”** is defined as the amount of actual harm³ the Eligible Investors suffered as a result of Defendants’ conduct as described in the Complaint and Final Judgments, reduced by any monies received by an Eligible Investor as reimbursement, settlements, insurance, interest or principal payments on their investments in Trafalgar and/or New England RE, or other payments in connection with this matter from Defendants, or any other third party. Such investors whose Net Harm amount is a positive number are eligible to receive a payment. The proposed Distribution Agent has determined the Net Harm amount for each Eligible Investor, as set forth in the “Net Harm” columns in the charts contained within Paragraph 38 of this Distribution Plan.

19. **“Tax Administrator”** shall mean Miller Kaplan Arase LLP with one of their offices located in San Francisco, California. The Tax Administrator will execute all income tax reporting requirements, including the preparation and filing of tax returns, with respect to funds under this Court's jurisdiction in this case. Pursuant to the proposed Order, the Tax Administrator is required to pay taxes in a manner consistent with the treatment of the Fair Fund as a QSF, and is to be compensated for the tax services provided.

20. **“Time Value of Money”** means reasonable interest awarded, if feasible, to the Eligible Investors in addition to their Net Harm Amounts to compensate them for the foregone time value of money since the investor injury occurred. The reasonable interest is calculated using the short-term Applicable Federal Rate published by the Internal Revenue Service, plus 3%, compounded quarterly from the end of the calendar quarter in which loss was incurred

³ For New England RE Eligible Investors, the harm amount does not include those portions of initial investment amounts which may have increased or declined based on other factors unrelated to the Defendants’ misconduct as described in the Complaint and Final Judgments. Only those portions of the investment which were lost due to the misconduct as described in the Complaint and Final Judgments are considered to be the amount of harm.

through June 30, 2018 for distributions to Trafalgar Eligible Investors and through December 31, 2018 for distributions to New England RE Eligible Investors.

C. RESPONSIBILITIES OF THE TAX ADMINISTRATOR

21. The Fair Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code, 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. The Tax Administrator is the administrator of such QSF, and shall satisfy the tax related administrative requirements, including but not limited to:

- (a) obtaining a taxpayer identification number;
- (b) timely requests for funds necessary for the timely paying of all applicable taxes, the timely payment of taxes for which the Tax Administrator has received funds, and the filing of applicable returns; and
- (c) fulfilling any information reporting or withholding requirements required for distributions from the Fair Fund.

22. The Distribution Agent shall cooperate with the Tax Administrator in providing any information necessary to ensure income tax compliance.

D. RESPONSIBILITIES OF THE DISTRIBUTION AGENT

23. The Distribution Agent, Sondra Panahi, is Trial Counsel, Office of Distributions, within the Commission’s Division of Enforcement. As a Commission employee, the Distribution Agent shall receive no compensation from the Fair Fund for her services in administering the Fair Fund. The Distribution Agent will be deemed to be acting within the scope of her employment with the Commission in administering this Distribution Plan. The Distribution Agent shall be responsible for, among other things, overseeing the administration of the Fair Fund, preparing accountings, disbursing the Fair Fund to the Eligible Investors who

were harmed by the violations alleged in the Complaint in accordance with this Plan, and preparing a final accounting. The Distribution Agent will carry out her duties in coordination with the staff of the Commission, pursuant to this Distribution Plan, and subject to oversight by the Court.

24. 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. The Distribution Agent and her designees, agents, and assistants are excused from all legal requirements to post a bond or give an undertaking of any type in connection with their duties and obligations under this Distribution Plan. They shall not be liable to any person for their action hereunder, except on a finding of misfeasance, gross negligence, or reckless disregard of duty.

E. GENERAL ADMINISTRATIVE PROCEDURES

25. All determinations of the Distribution Agent that are made in accordance with the provisions of this Distribution Plan are final and not subject to appeal.

26. To carry out the purposes of the Distribution Plan, the Distribution Agent is authorized to make immaterial adjustments to the Distribution Plan, consistent with the purposes of the Distribution Plan. Material adjustments, however, must be approved by the Court.

27. All fees and expenses incurred in the administration of the Distribution Plan, as well as any federal, state, or local taxes payable in connection with the Distribution Plan, shall be paid out of the Fair Fund pursuant to further order of the Court.

28. The staff does not currently anticipate receiving additional funds beyond the Defendants' payments as ordered and pursuant to the payment plans set forth in the Final Judgments, however, in the event that additional funds are received in this matter or such funds are received in advance of the Defendants' scheduled payments, the Distribution

Agent may, but is not required to, make adjustments to the Distribution Plan as necessary, where those funds may be, deposited into the Fair Fund, and distributed in accordance with the Distribution Plan.

F. PROCEDURE FOR HANDLING OBJECTIONS

29. Since this Distribution Fund is not being distributed according to a claims-made process, the procedures for providing notice and for making and approving claims are not applicable.

30. Within ten (10) days following the entry of an order by this Court approving the Distribution Plan, the Commission staff will post the Plan on the Information for Harmed Investors page of the Commission's public website, <https://www.sec.gov/divisions/enforce/claims.htm>.

31. Any person wishing to comment on or object to the Distribution Plan must do so in writing by filing their comments with the Court within thirty (30) days from the date this Distribution Plan is approved by the Court.

32. The Eligible Investor must clearly explain his or her disagreement with the Distribution Plan and must provide all relevant supporting documentation to the Clerk of the Court for the District of Connecticut, with copies to Judge Eginton and the Distribution Agent. A failure to properly and timely object to the proposed Distribution Plan shall permanently waive the potential Eligible Investor's right to object. The burden of proof in any objection or any Proof of Claim shall be upon the potential Eligible Investor.

33. The Distribution Agent shall review each comment or objection to determine its validity; should it be deemed proper, the Distribution Agent shall adjust the Distribution Plan as necessary. Any such adjustments, other than those provided for in the Distribution Plan, however, must be approved by the Court.

34. The Distribution Agent may respond to any comments so filed within sixty (60) days from the last date a comment was filed, with copies of any such response to be filed with the Court.

35. General information about filing with the Court can be obtained from the Court's website at <http://www.ctd.uscourts.gov/>. Questions may be directed to the Distribution Agent at the following: Sondra Panahi, Securities and Exchange Commission, Office of Distributions, 801 Brickell Avenue, Miami, Florida 33131.

G. METHODOLOGY FOR DETERMINING DISTRIBUTION AMOUNTS

36. The Distribution Agent has determined the amount to be distributed to each Eligible Investor, with reference to the information collected by the Commission staff regarding Eligible Investors' Net Harm Amounts.

37. It is anticipated that the Fair Fund will be fully funded and that the Defendant will make payments as ordered under the payment plan pursuant to the Final Judgments. Thus, it is anticipated that the Eligible Investors will be paid their Net Harm Amounts in full, as well as reasonable interest thereon. It is anticipated that there will be two distributions to the Eligible Investors, which will take place as outlined in this Distribution Plan.

38. The Distribution Agent and the Commission staff will distribute the funds received from the Defendants into the Fair Fund to the Eligible Investors as follows:

Distribution Tranche 1 – Trafalgar Eligible Investors

Eligible Investor	Harm Amount	Payments Received	Net Harm Amount	Time Value of Money	Distribution Payment Amount
Trafalgar Eligible Investor #1	\$12,500.00	\$2,434.96	\$10,065.04	\$1,051.09	\$11,116.13
Trafalgar Eligible Investor #2	\$150,000.00	\$30,501.37	\$119,498.63	\$12,479.24	\$131,977.87
Trafalgar Eligible Investor #3	\$50,000.00	\$10,723.46	\$39,276.54	\$4,105.97	\$43,382.51
Trafalgar Eligible Investor #4	\$50,000.00	\$10,500.00	\$39,500.00	\$4,787.80	\$44,287.80
Trafalgar Eligible Investor #5	\$5,000.00	\$1,010.62	\$3,989.38	\$450.00	\$4,439.38
Trafalgar Eligible Investor #6	\$100,000.00	\$19,863.36	\$80,136.64	\$8,172.54	\$88,309.18
Trafalgar Eligible Investor #7	\$50,000.00	\$13,459.16	\$36,540.84	\$3,819.98	\$40,360.82
Trafalgar Eligible Investor #8	\$2,500.00	\$500.00	\$2,000.00	\$242.42	\$2,242.42
Trafalgar Eligible Investor #9	\$75,000.00	\$26,101.54	\$48,898.46	\$5,926.98	\$54,825.44
Trafalgar Eligible Investor #10	\$100,500.00	\$27,156.64	\$73,343.36	\$8,867.64	\$82,211.00
Trafalgar Eligible Investor #11	\$25,000.00	\$17,642.31	\$7,357.69	\$1,078.20	\$8,435.89
Trafalgar Eligible Investor #12	\$50,000.00	\$30,637.68	\$19,362.32	\$1,445.59	\$20,807.91
Trafalgar Eligible Investor #13	\$60,000.00	\$41,549.94	\$18,450.06	\$2,703.67	\$21,153.73
Trafalgar Eligible Investor #14	\$120,000.00	\$50,180.61	\$69,819.39	\$5,966.77	\$75,786.16

Distribution Tranche 2 – New England RE Eligible Investors

Eligible Investor	Harm Amount	Payments Received	Net Harm Amount	Time Value of Money	Distribution Payment Amount
New England RE Eligible Investor #1	\$5,254.13	None	\$5,254.13	\$831.57	\$6,085.70
New England RE Eligible Investor #2	\$5,254.13	None	\$5,254.13	\$831.57	\$6,085.70
New England RE Eligible Investor #3	\$21,016.54	None	\$21,016.54	\$3,326.29	\$24,342.83
New England RE Eligible Investor #4	\$2,101.65	None	\$2,101.65	\$314.51	\$2,416.16
New England RE Eligible Investor #5	\$10,560.81	None	\$10,560.81	\$1,671.46	\$12,232.27
New England RE Eligible Investor #6	\$152,375.16	None	\$152,375.16	\$21,809.13	\$174,184.29
New England RE Eligible Investor #7	\$21,016.54	None	\$21,016.54	\$3,326.29	\$24,342.83
New England RE Eligible Investor #8	\$5,254.13	None	\$5,254.13	\$831.57	\$6,085.70
New England RE Eligible Investor #9	\$10,508.27	None	\$10,508.27	\$1,663.14	\$12,171.41
New England RE Eligible Investor #10	\$10,508.27	None	\$10,508.27	\$1,663.14	\$12,171.41
New England RE Eligible Investor #11	\$5,254.13	None	\$5,254.13	\$831.57	\$6,085.70
New England RE Eligible Investor #12	\$5,254.13	None	\$5,254.13	\$786.28	\$6,040.41
New England RE Eligible Investor #13	\$8,417.14	None	\$8,417.14	\$1,295.75	\$9,712.89
New England RE Eligible Investor #14	\$6,304.97	None	\$6,304.97	\$997.89	\$7,302.86

Thus, the distribution will occur as follows:

a. From the first two payments made by Defendants Haddad and Trafalgar pursuant to the Final Judgments in the total amount of \$643,994.09, after reserving the amount of \$10,000 for taxes and for the fees and expenses of the Tax Administrator appointed by this Court, the Commission shall distribute such funds as follows:

- i. The amount of \$11,116.13 to Trafalgar Eligible Investor #1
- ii. The amount of \$131,977.87 to Trafalgar Eligible Investor #2
- iii. The amount of \$43,382.51 to Trafalgar Eligible Investor #3
- iv. The amount of \$44,287.80 to Trafalgar Eligible Investor #4
- v. The amount of \$4,439.38 to Trafalgar Eligible Investor #5
- vi. The amount of \$88,309.18 to Trafalgar Eligible Investor #6
- vii. The amount of \$40,360.82 to Trafalgar Eligible Investor #7
- viii. The amount of \$2,242.42 to Trafalgar Eligible Investor #8
- ix. The amount of \$54,825.44 to Trafalgar Eligible Investor #9
- x. The amount of \$82,211.00 to Trafalgar Eligible Investor #10
- xi. The amount of \$8,435.89 to Trafalgar Eligible Investor #11
- xii. The amount of \$20,807.91 to Trafalgar Eligible Investor #12
- xiii. The amount of \$21,153.73 to Trafalgar Eligible Investor #13
- xiv. The amount of \$75,786.16 to Trafalgar Eligible Investor #14

b. From the subsequent payments made by Defendants Haddad, Trafalgar, and New England RE, pursuant to the Final Judgments in the total amount of \$453,263.83, once the Commission has received such payments in full and after reserving the amount of \$10,000 for taxes and for the fees and expenses of the Tax Administrator appointed by this Court, the

Commission shall distribute such funds as follows:

- i. The amount of \$6,085.70 to New England RE Eligible Investor #1
- ii. The amount of \$6,085.70 to New England RE Eligible Investor #2
- iii. The amount of \$24,342.83 to New England RE Eligible Investor #3
- iv. The amount of \$2,416.16 to New England RE Eligible Investor #4
- v. The amount of \$12,232.27 to New England RE Eligible Investor #5
- vi. The amount of \$174,184.29 to New England RE Eligible Investor #6
- vii. The amount of \$24,342.83 to New England RE Eligible Investor #7
- viii. The amount of \$6,085.70 to New England RE Eligible Investor #8
- ix. The amount of \$12,171.41 to New England RE Eligible Investor #9
- x. The amount of \$12,171.41 to New England RE Eligible Investor #10
- xi. The amount of \$6,085.70 to New England RE Eligible Investor #11
- xii. The amount of \$6,040.41 to New England RE Eligible Investor #12
- xiii. The amount of \$9,712.89 to New England RE Eligible Investor #13
- xiv. The amount of \$7,302.86 to New England RE Eligible Investor #14

39. In the view of the Distribution Agent, this methodology constitutes a fair and reasonable allocation of the Fair Fund.

H. PAYMENT TO ELIGIBLE INVESTORS

40. As set forth in Paragraphs 36 - 39, the Distribution will be effected in two separate tranches, upon the Commission's receipt of the Defendants' payments made as ordered under the payment plan pursuant to the Final Judgments.

41. The Distribution Agent and the Commission staff shall make payments by check to each Eligible Investor. All Fair Fund payments to Eligible Investors shall be preceded or

accompanied by a communication that includes, as appropriate:

- a. a statement characterizing the distribution;
- b. a statement that the tax treatment of the distribution is the responsibility of each recipient and that the recipient should consult his or her tax advisor for advice regarding the tax treatment of the distribution;
- c. a statement that checks are valid for one year; and
- d. the name of a person or entity to contact, if the Eligible Investor has any questions regarding the distribution.

42. The Fair Fund distribution checks, on their face, or in the accompanying communication, shall clearly indicate that the money is being distributed from a Fair Fund established by the Commission to compensate investors for harm as a result of their investment in Trafalgar and/or New England RE securities.

43. To the extent that an Eligible Investor, his or her representative, heir or assign requests a distribution check to be issued or reissued in a different name than the Eligible Investor (e.g. as the result of a name change because of marriage or divorce, or as the result of death), the Distribution Agent shall honor such request upon receipt of documentation which the Distribution Agent in her sole discretion deems appropriate to substantiate the request.

44. Checks returned as undeliverable by the USPS, and for which a new address has been provided by the USPS, will be repackaged and sent to the new address. For checks returned as undeliverable by the USPS, and for which no new address is provided, the Distribution Agent and the Commission staff shall engage in additional efforts to identify new addresses for returned checks, as necessary and economically reasonable.

45. Where new address information becomes available, the Distribution Agent and the Commission staff shall repackage the distribution check and send it to the new address. Where new address information is not available after a diligent search (and in no event later

than one year after the initial mailing of the original check), the check shall be voided and the Distribution Agent shall instruct the issuing financial institution to stop payment on such check.

46. All checks will bear a stale date of one year from the date of the check. Checks that are not negotiated by the stale date shall be voided and the issuing financial institution shall be instructed to stop payment on those checks.

47. After one year from the date on the distribution checks, the Distribution Agent will credit the Fair Fund for the amount of all uncashed checks. The amount of any uncashed check shall be placed in a residual account within the Fair Fund.

48. Under no circumstances shall the Commission, the Distribution Agent or her agents incur any liability to any person if the Commission, the Distribution Agent or her agents make a distribution in accordance with the list of Eligible Investors and their Net Harm as set forth in this Distribution Plan approved by the Court. Upon receipt and acceptance by a Eligible Investor of a check from the Fair Fund, such Eligible Investor shall be deemed to have released all claims that such Eligible Investor may have against the Commission, the Distribution Agent or his or her agents, and shall be deemed enjoined from prosecuting or asserting any such claims.

I. ACCOUNTINGS

49. The Distribution Agent shall file with the Court a final report when the distribution is completed but prior to the termination of the Fair Fund and discharge of the Distribution Agent. The final report submitted to the Court will include a final accounting in a standardized accounting format which shall include, among other things, a final accounting of all monies received, earned, spent, and distributed in connection with the administration of this Distribution Plan, and a request for approval of any unpaid fees and costs.

J. FUND TERMINATION

50. The Distribution Agent shall make arrangements for the final payment of taxes and tax-related fees and shall submit a final accounting to the Court in a standardized accounting format which shall include, among other things, a final accounting of all monies received, earned, spent, and distributed in connection with the administration of this Distribution Plan, and a request for approval of any unpaid fees and costs. The Fair Fund shall be eligible for termination, and the Distribution Agent shall be discharged, after all of the following have occurred: (1) the Final Accounting has been submitted by the Distribution Agent for approval, and has been approved by, the Court; (2) all taxes, fees, and expenses have been paid; and (3) any amount remaining in the Fair Fund has been paid to the Commission for transfer to the U.S. Treasury.

K. REMAINING FUNDS IN THE FAIR FUND

51. A residual account within the Fair Fund is established for any amounts remaining after all assets have been distributed. The residual account may include funds reserved for future taxes and related expenses, funds from checks that have not been cashed, from checks that were not delivered or from funds returned to the Distribution Agent, tax refunds for overpayment or for waiver of penalties. If for any reason funds remain in the Fair Fund six months after the Court has approved the final accounting, the Commission, without further order of the Court, will remit all undistributed funds for transfer to the United States Treasury.

52. The Court shall retain jurisdiction over the Distribution Plan and the effectuation thereof.