

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DIKE BOONE NERREN,

Defendant.

Civil Action No. 4:20-CV-965

**ORDER TO ESTABLISH A FAIR FUND, APPOINT A TAX ADMINISTRATOR,
APPOINT A DISTRIBUTION AGENT, AND AUTHORIZE THE PAYMENT
OF TAXES, FEES, AND EXPENSES**

The Court, having reviewed the Motion of Plaintiff Securities and Exchange Commission (the “SEC”) for an Order to (1) establish a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended by the Dodd-Frank Act of 2010 [15 U.S.C. § 7246(a)]; (2) appoint Miller Kaplan Arase LLP (“Miller Kaplan”), a certified public accounting firm, as Tax Administrator with respect to funds under this Court’s jurisdiction in this case; (3) appoint Allison Moon, a SEC employee with the position of Trial Counsel in the SEC’s Office of Distributions, as Distribution Agent of the Fair Fund; (4) authorize the Distribution Agent and the SEC staff to pay the tax obligations of the Fair Fund, and fees and expenses of the Tax Administrator from the Fair Fund without further order from the Court; and for good cause shown.

IT IS HEREBY ORDERED that:

1. The Motion (Dkt. #6) is **GRANTED**;
2. A Fair Fund is established pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended by the Dodd-Frank Act of 2010 [15 U.S.C. § 7246(a)] for the funds collected in the captioned matter (the “Dike Boone Nerren Fund” or the “Fair Fund”), which shall consist of the

\$37,500.00 currently held by the SEC at the U.S. Treasury under the case name designation Dike Boone Nerren, FW-04347-B plus accrued interest. Additional amounts which are collected or otherwise received by the SEC in connection with this matter will be added to the Fair Fund.

3. Miller Kaplan is appointed as Tax Administrator to execute all income tax reporting requirements, including the preparation and filing of tax returns, for all funds under the jurisdiction of this Court in the captioned matter. As the Tax Administrator, Miller Kaplan shall:

a. Be designated the Tax Administrator of the Fair Fund, pursuant to Section 468B(g) of the Internal Revenue Code, 26 U.S.C. § 468B(g), and related regulations, and shall satisfy the administrative requirements imposed by those regulations, including but not limited to (i) obtaining a taxpayer identification number, (ii) filing applicable federal, state, and local tax returns and paying taxes reported thereon out of the Fair Fund, and (iii) satisfying any information, reporting, or withholding requirements imposed on distributions from the Fair Fund, including but not limited to the Foreign Account Tax Compliance Act. Upon request, the Tax Administrator shall provide copies of all filings to the SEC's counsel of record;

b. Perform services in accordance with, and be entitled to charge reasonable fees for tax compliance services and related expenses. The Tax Administrator shall, at such times as the Tax Administrator deems appropriate, submit a request to the Distribution Agent for payment of fees and expenses from the Fair Fund; and

c. At such times as the Tax Administrator deems necessary to fulfill the tax obligations of the Fair Fund, submit a request to the Distribution Agent for authorization to pay from the Fair Fund the tax obligations of the Fair Fund.

4. Allison Moon, SEC employee, is hereby appointed as the Distribution Agent over the Fair Fund.

5. As a SEC employee, the Distribution Agent shall receive no compensation from the Fair Fund for her services in administering the Fair Fund. In carrying out her duties, the Distribution Agent may be assisted by other SEC staff acting under her supervision.

6. The Distribution Agent will, among other things, implement a court-approved Distribution Plan; oversee the administration of the Fair Fund; coordinate with the Tax Administrator in order to prepare accountings and to ensure that the Fair Fund complies with all related legal and regulatory requirements; and maintain accurate records concerning the Fair Fund.

7. The Distribution Agent and the SEC staff are authorized to approve and arrange payment of all tax obligations owed by the Fair Fund and the fees and expenses of the Tax Administrator directly from the reserve of the Fair Fund without further order of this Court. The Tax Administrator will submit invoices of all fees and expenses incurred in connection with its respective duties to the Distribution Agent for review and, as appropriate, payment. All payments will be reflected in the final accounting for the Fair Fund.

IT IS SO ORDERED.

SIGNED this 14th day of February, 2022.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE