



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
ONE PENN CENTER
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PHILADELPHIA, PA 19103

January 14, 2022

Via ECF and UPS Overnight

Hon. Carol Bagley Amon
United States District Court
Eastern District of NY
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: SEC v. Plexcorps a/k/a and d/b/a PlexCoin and Sidpay.ca, et al.,
No. 17 Civ. 7007 (CBA) (the “Civil Action”)**

Dear Judge Amon:

Pursuant to Practice 3.A. of the Individual Motion Practices and Rules of Judge Carol Bagley Amon and in anticipation of proposing to the Court a plan for the disposition of collections in this matter, the Plaintiff Securities and Exchange Commission (“SEC”) respectfully requests that the Court schedule a pre-motion conference at which the SEC will seek an Order appointing a tax administrator for the PlexCorps Fair Fund to ensure compliance with IRS rules and regulations.

The PlexCorps Fair Fund constitutes a Qualified Settlement Fund (“QSF”) under section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5 because it was established by this Court for distribution to investors harmed by the defendants’ fraud and registration violations in connection with the PlexCoin initial coin offering. It is comprised of collections from the Defendants in satisfaction of a Final Judgment and it is held by the SEC. *See* 26 C.F.R. § 1.468B-1; see also D.E. 116 (Final Judgment). The appointment of a tax administrator is necessary to ensure the taking of all necessary steps to enable the PlexCorps Fair Fund to obtain and maintain the status of a taxable QSF, including the filing of all required elections and statements contemplated by those provisions. The SEC recommends the appointment of Miller, Kaplan, Arase LLP (“Miller Kaplan”), a certified public accounting firm that frequently acts as the tax administrator in SEC enforcement actions and that is experienced in QFS reporting.

By the proposed Order, Miller Kaplan will execute all income tax reporting obligations of the PlexCorp Fair Fund, including the preparation and filing of tax returns and compliance with

the Foreign Account Tax Compliance Act. If the PlexCorps Fair Fund is transferred to the Receiver appointed in the related action pending in Superior Court in Quebec, Canada (the “Receiver”)¹ for distribution, Miller Kaplan will file a final tax return for the year of its transfer and provide to the SEC any information requested to assist the SEC in reporting to the Court. If the PlexCorps Fair Fund is not transferred to the Receiver for distribution, Miller Kaplan will provide all necessary services through the completion of any distribution and prepare a final accounting, in a form acceptable to the SEC, for filing with the Court.

The proposed Order further authorizes the SEC to approve and arrange payment of all tax related costs without further Court Order. Miller Kaplan has agreed to perform all work pursuant to the fees set forth in its agreement with the SEC for tax years 2019 through 2021. If the PlexCorps Fair Fund is transferred to the Receiver appointed in the related action in Canada, *AUTORITÉS DES MARCHÉS FINANCIERS v. DOMINIC LACROIX, et al.*, No.: 200-11-025040-182, Superior Court, Quebec, Canada, for distribution, Miller Kaplan has further agreed that its aggregate fees and expenses will not exceed the PlexCorps Fair Fund’s net earnings in this matter, \$1583.08. If the PlexCorps Fair Fund owes taxes, taxes will be paid first from accrued interest, and then from principal.

The Court in the Canadian Proceedings has scheduled a hearing on January 25, 2022, regarding the Receiver’s proposed distribution. The Receiver is proposing two plans: one for the distribution of assets collected by the Receiver, and the other for the PlexCorps Fair Fund, should this Court order its distribution through the Receiver in the Canadian Proceedings.² The SEC has collaborated with the Receiver in the development of those plans and, upon their approval, anticipates filing a motion with this Court recommending a plan for the distribution of the PlexCorps Fair Fund and seeking an Order to Show Cause to provide to harmed investors the opportunity to object to that plan.

In compliance with the Local Rules of the Eastern District of New York, counsel for the SEC has conferred with Defendants’ counsel in the United States about the foregoing matter, and counsel has informed the SEC that his clients take no position on the Motion. We look forward to discussing the Motion with the Court at a pre-motion conference.

Respectfully submitted,



Catherine E. Pappas
Pro Hac Admission, Order Approving D.E. 119

Encls: Proposed Order

cc: Defendants’ Counsel (via ECF Notice)

¹ *AUTORITÉS DES MARCHÉS FINANCIERS v. DOMINIC LACROIX, et al.*, No.: 200-11-025040-182, Superior Court, Quebec, Canada.

² English translations of drafts of the two plans, as well as the Receiver’s most recent report, are available on the SEC’s webpage for this matter: <https://www.sec.gov/divisions/enforce/claims/plexcorps.htm> .

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,**

v.

**PLEXCORPS
(a/k/a and d/b/a PLEXCOIN and SIDEPAY.CA),
DOMINIC LACROIX, and
SABRINA PARADIS-ROYER,
Defendants.**

17 Civ. 7007 (CBA) (RML)

**(Proposed) Order Appointing a
Tax Administrator and Related
Relief**

The Court having considered the Motion of Plaintiff Securities and Exchange Commission (the “SEC”) for an Order appointing Miller Kaplan Arase LLP (“Miller Kaplan”) as tax administrator and authorizing payment of tax obligations and administrative fees and expenses from the Fair Fund established in this action without further Court Order,

And there being no objection to the Motion,

And for good cause shown,

IT IS HEREBY ORDERED that:

1. The Motion is **GRANTED**;
2. Miller Kaplan is appointed tax administrator (the “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 (the “PlexCorps Fair Fund”);
3. As the Tax Administrator, Miller Kaplan shall:
 - a) Be designated the Tax Administrator of the PlexCorps 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 PlexCorps Fair Fund, and (iii) satisfying any information, reporting, or withholding requirements imposed on distributions from the PlexCorps Fair Fund, including but not limited to the Foreign Account Tax Compliance Act. Upon request, the Tax Administrator shall provide copies of any 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 be entitled to charge reasonable fees for tax compliance services and related expenses in accordance with its agreement with the SEC for the Tax Years 2019 through 2021. If the PlexCorps Fair Fund is transferred to the Receiver appointed in the related action in Canada, *AUTORITÉS DES MARCHÉS FINANCIERS v. DOMINIC LACROIX, et al.*, No.: 200-11-025040-182, Superior Court, Quebec, Canada (the "Canadian Proceeding"), for distribution, Miller Kaplan's fees and expenses shall not exceed \$1583.08, the net earnings on the PlexCorps Fair Fund. The Tax Administrator shall, at such times as the Tax Administrator deems appropriate, submit a request to the SEC's counsel of record for payment of fees and expenses from the PlexCorps Fair Fund; and

c) At such times as the Tax Administrator deems necessary to fulfill the tax obligations of the PlexCorps Fair Fund, submit a request to the SEC's counsel of record for authorization to pay from the PlexCorps Fair Fund tax obligations of the PlexCorps Fair Fund. Tax liabilities shall first be paid from accrued interest if any remains after the payment of fees and expenses, and then from the corpus of the PlexCorps Fair Fund.

4. The SEC is authorized to approve and arrange payment of all tax obligations owed by the PlexCorps Fair Fund and the fees and expenses of the Tax Administrator directly from the PlexCorps Fair Fund without further order of this Court, provided, however, that if the PlexCorps Fair Fund is transferred to the Receiver in the Canadian Proceeding, the aggregate payments of tax administration fees and expenses may not exceed \$1583.08 without approval by the Court. The Tax Administrator will submit invoices of all fees and expenses incurred in connection with its respective duties to the SEC's counsel of record for review and, as appropriate, payment. All payments will be reflected in the final report or accounting referenced below.

5. If the PlexCorps Fair Fund is transferred to the Canadian Proceeding for distribution, the Tax Administrator will provide to the SEC any information requested to assist the SEC in reporting to the Court. If the PlexCorps Fair fund is not transferred to the Canadian Proceeding for distribution, upon completing its duties as set forth herein, the Tax Administrator will provide to the SEC's counsel of record a final accounting in a form provided by the SEC's counsel of record.

6. The Court will retain exclusive jurisdiction over the distribution, including, but not limited to, claims against the Tax Administrator asserting liability for violation of any duty imposed by Court Order.

IT IS SO ORDERED.

Dated: _____, 2022

The Honorable Carol Bagley Amon
U.S. District Court Judge