

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

Case No: 8:09-cv-910-T-33JSS

WELLCARE HEALTH PLANS, INC.,

Defendant.

\_\_\_\_\_ /

**ORDER**

THIS MATTER is before the Court on Plaintiff Securities and Exchange Commission's Motion and Memorandum of Law in Support of an Order to Appoint a Distribution Agent, and to Authorize Payment of Future Fees, and Expenses of the Distribution Agent from the Fair Fund ("Motion"). (Dkt. 19.)

On May 18, 2009, the United States Securities and Exchange Commission ("the Commission") filed this action against Wellcare Health Plans, Inc. ("Wellcare"), alleging violations of federal securities laws. (Dkt. 1.) The parties reached a settlement and with Wellcare's consent, the Court entered final judgment against Wellcare on June 1, 2009. (Dkt. 4.) The final judgment granted injunctive relief and required Wellcare to pay \$1 dollar in disgorgement and a civil penalty of \$10 million. (Dkt. 4.) The judgment authorized the Commission to propose a plan to distribute the funds. (Dkt. 4 at 7.) Wellcare paid the judgment into the Court's registry in four installments. (Dkts. 5-8.) On August 13, 2019, upon the Commission's motion, the Court created a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 [15 U.S.C. § 7246(a)], as amended by the Dodd-Frank Act of 2010 [15 U.S.C. § 7246] ("Fair Fund"), and appointed Miller Kaplan Arase LLP to serve as the Tax Administrator

of the Fair Fund. (Dkt. 18.) The Commission now moves to appoint Kurtzman Carson Consultants, LLC (“KCC”) to serve as Distribution Agent of the Fair Fund. (Dkt. 19.)

Accordingly, it is **ORDERED**:

1. Plaintiff Securities and Exchange Commission’s Motion and Memorandum of Law in Support of an Order to Appoint a Distribution Agent, and to Authorize Payment of Future Fees, and Expenses of the Distribution Agent from the Fair Fund (Dkt. 19) is **GRANTED**;
2. Kurtzman Carson Consultants, LLC (“KCC”) is appointed to serve as the Distribution Agent for the Fair Fund to assist in overseeing the administration and the distribution of the Fair Fund in coordination with the Commission, pursuant to the terms of a distribution plan to be approved by this Court.
3. KCC shall coordinate with the Court-appointed Tax Administrator, Miller Kaplan Arase LLP, to ensure that the Fair 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 the QSF.
4. KCC shall complete a final accounting report, in a format to be provided by the Commission, when KCC’s duties are completed. The Commission shall file the final accounting report with the Court once it has been reviewed by the Commission, and the Commission has determined it has no objections.
5. KCC 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 KCC decides to resign, it will

first give written notice to the Court and to Commission's counsel of such intention, and the resignation, if permitted, will not be effective until the Court appoints a successor.

6. The Commission is authorized to approve and arrange payment of all future fees and expenses for services rendered by the Distribution Agent directly from the Fair Fund without further order of the Court.
7. 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.

**DONE** and **ORDERED** in Tampa, Florida, on December 9, 2019.

  
\_\_\_\_\_  
JULIE S. SNEED  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:  
Counsel of Record