

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

ROBERT D. FALOR

Defendant,

and

JENNIFER L. FALOR,

Relief Defendant.

Case No. 1:09-cv-5644

Hon. Joan B. Gottschall

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S
AMENDED MOTION TO DISBURSE DISTRIBUTION FUND**

Plaintiff United States Securities and Exchange Commission (“SEC”), in accordance with the Distribution Plan approved by this Court on May 19, 2016 (ECF No. 156), hereby files an amended motion for an Order directing the Plan Administrator to distribute the Distribution Fund, less any reserve for tax obligations, fees and expenses of the Tax Administrator (“Net Distribution Fund”), to each Eligible Recipient in accordance with the terms of the Distribution Plan. In support of its motion, the SEC states as follows:

1. On September 11, 2009, the SEC filed a Complaint alleging that Robert Falor (“Falor”) violated Section 17(a) of the Securities Act of 1933 (“Securities Act”) and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder by engaging in a fraudulent offering in which he took \$9,127,667 from defrauded investors. The

complaint also named Falor's wife, Jennifer Falor, as a relief defendant to recover approximately \$930,000 in investor funds that she either received directly or were spent for her benefit. The complaint sought disgorgement, prejudgment interest and civil penalties from Falor and disgorgement and prejudgment interest from Jennifer Falor.

2. On August 6, 2013, the Court entered an agreed Final Judgment against Relief Defendant Jennifer Falor in which she consented to the entry of a final judgment finding her liable for disgorgement of \$930,243 plus prejudgment interest of \$508,473.26, totaling \$1,438,716.26, but waiving payment of all but \$140,100 based on her sworn representations in her Statement of Financial Condition dated February 19, 2013, and other documents and information submitted to the SEC. (ECF No. 120). Relief Defendant's \$140,100 obligation was satisfied by the \$125,000 that was being held in the Court's registry and payment to the Clerk of Court of \$15,100.

3. On February 27, 2015, the Court entered an agreed Final Judgment against Robert D. Falor in which he consented to the entry of a final judgment finding him liable for disgorgement of \$8,987,567, prejudgment interest in the amount of \$5,391,803.49 and a civil penalty in the amount of \$130,000. (ECF No. 137) Falor has been incarcerated since August 30, 2011. To date Falor has failed to make any payments. The matter has been referred to the SEC's Office of Collections. On February 1, 2016, the SEC collected \$20,865 from the Florida Department of Financial Services in unclaimed funds held in the name of Robert Falor.

4. On May 19, 2016, the Court issued a revised order that: (a) appointed a Plan Administrator; (b) approved the Commission's proposed plan to distribute funds paid by Relief Defendant, funds collected from the Florida Department of Financial Services, and any future funds to be paid by defendant Falor to harmed investors; (c) authorized the transfer of funds held

in the Court Registry Investment System to the SEC's Office of Financial Management to be distributed in accordance with the Distribution Plan; and (d) authorized the SEC staff to approve and arrange payment of all future tax obligations and tax administrator fees and expenses owed by the Distribution Fund. (ECF No. 156)

5. The SEC has since received several inquiries from investors questioning why certain of their investments were not included in the allocation table. The staff reviewed documents provided by the investors and determined that they represented investments other than the investments that are the subject of this litigation. Thus, any such alleged losses have been properly excluded from the distribution.

6. According to the Distribution Plan, each investor had twenty (20) days from the date of the Distribution Plan to submit objections to the proposed distribution. (ECF. No. 149) That deadline has long since passed, and the Plan Administrator has received no objections to the distribution methodology.

7. Therefore, pursuant to the terms of the Distribution Plan, the Plan Administrator has prepared and submitted to the SEC staff a list of 51 Eligible Recipients and the amount of the Net Distribution Fund, approximately \$150,307.17, to be distributed to the Eligible Recipients ("Eligible Recipients *Pro Rata* Share"). The Final Payee List has been reviewed by the undersigned SEC Counsel who has no objections.

WHEREFORE, plaintiff United States Securities and Exchange Commission respectfully requests that this Court grant the Amended Motion; enter the Proposed Order authorizing the distribution of funds, less any reserve for tax obligations, fees and expenses of the Tax Administrator ("Net Distribution Fund"), to each Eligible Recipient in accordance with the terms of the Distribution Plan; and grant such other relief as the Court deems just and proper.

Dated: July 18, 2016

Respectfully Submitted,

/s/ Jonathan S. Polish

Jonathan S. Polish

Dee A. O'Hair

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