

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

1:10-cv-4791-LAK-JCF

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

ICP ASSET MANAGEMENT, LLC, ICP SECURITIES, LLC,  
INSTITUTIONAL CREDIT PARTNERS, LLC, and THOMAS C.  
PRIORE,

Defendants,

- and -

THOMAS C. PRIORE, LORI A. PRIORE, and  
BERTRAND H. SMYERS,

Relief Defendants.

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S NOTICE OF MOTION  
AND MOTION TO ESTABLISH A FAIR FUND, APPOINT A TAX ADMINISTRATOR,  
AND APPOINT A FUND ADMINISTRATOR**

**PLEASE TAKE NOTICE** that upon the Memorandum of Law, the Declaration of Sondra Panahi, the Proposed Order submitted herewith, and upon all papers and proceedings heretofore filed or had herein, the plaintiff Securities and Exchange Commission ("the Commission") will move before the Hon. Lewis A. Kaplan, United States District Judge, for an order (i) establishing a Fair Fund, (ii) appointing Damasco & Associates LLP ("Damasco")<sup>1</sup> located in Half Moon Bay, California, as Tax Administrator, (iii) appointing Nichola L. Timmons, Commission employee with the title of Assistant Director of the Office of

<sup>1</sup> As of October 1, 2016, Damasco and Associates, LLC, became a part of Miller Kaplan Arase LLC. The firm's engagement with the SEC is not impacted, nor is there any anticipated impact on the firm's ability to carry out its duties as Tax Administrator in this case, if appointed.

Distributions, as Fund Administrator to develop a Distribution Plan and who may retain experts as necessary in order to assist with the development of such a Plan, and (iv) for such other and further relief as the Court may appear just and proper.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Judge Kaplan's Individual Practices:

- A. This Motion is filed without a return date.
- B. Answering and reply papers are to be served within the time specified by Local Civil Rule 6.1(b):
  - a. Answering affidavits, declarations, and memorandums of law are due 14 days after service of the moving papers (including the additional three days if service is made other than by personal service or by electronic delivery); and
  - b. Reply affidavits, declarations, and memorandums of law are due seven days after the service of the answering papers.
- C. All papers relating to this Motion must be electronically filed by ECF and, in addition, two courtesy copies must be delivered to the United States Marshall's desk at the Worth Street entrance to the 500 Pearl Street Courthouse at the time of filing.
- D. Answering memorandums of law may not exceed 35 double spaced pages in length, and if in excess of 10 pages must contain a table of contents and a table of authorities. Citations to United States Supreme Court cases must be both to United States Reports and to the Supreme Court Reporter. Unreported cases not available on Westlaw must be submitted with the memorandum.

- E. At the time that the reply papers are due, counsel shall advise the Court of any Monday morning within the next six week period when they would be unavailable for oral argument.
- F. If the Court regards oral argument as likely to be helpful, the Court will notify counsel of the time and place of such oral argument.

Dated: New York, New York  
January 10, 2017

/s/ John J. Graubard

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