

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

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

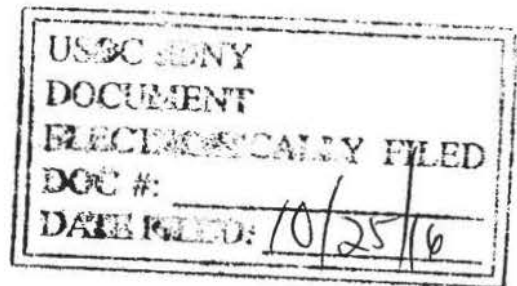
v.

VITESSE SEMICONDUCTOR CORPORATION,
et al.,

Defendants.

10-cv-09239 (JSR)

ECF Case



M ~~PROPOSED~~ ORDER ESTABLISHING A FAIR FUND FOR FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS, COMBINING FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS WITH FUNDS PREVIOUSLY PAID BY VITESSE, APPROVING DISTRIBUTION PLAN, AND AUTHORIZING PAYMENT OF CURRENT AND FUTURE INCIDENTAL EXPENSES OF DISTRIBUTION AGENT

Plaintiff, Securities and Exchange Commission ("SEC" or the "Commission"), having moved (the "Motion") for an Order to Establish a Fair Fund for Funds Previously Paid By Individual Defendants, Combine Funds Previously Paid by Individual Defendants with Funds Previously Paid by Vitesse, Approve Distribution Plan, and Authorize Payment of Current and Future Incidental Expenses of Distribution Agent; and the Court having considered the Motion, and for good cause shown,

IT IS HEREBY ORDERED, that the Motion is **GRANTED**; and

It is **FURTHER ORDERED** that

1. A Fair Fund is established for the \$359,815 in funds previously paid to the Commission, plus any interest less any fees, by individual defendants Louis R. Tomasetta, Eugene F. Hovanec, Yatin D. Mody, and Nicole R. Kaplan (collectively, "Individual Defendants").
2. The \$359,815 in funds previously paid by Individual Defendants, plus any interest less any fees, shall be combined with the \$3,000,000 in funds previously paid by Vitesse Semiconductor Corporation, plus any interest less registry fees, to the Commission and established as a Fair Fund, plus any interest earned on those funds.
3. The Commission's proposed plan to distribute to harmed investors approximately \$3,363,815 in funds, and any accrued interest, prior to deducting any fees and expenses of the tax administrator and incidental mailing expenses of the distribution agent, paid by defendants Vitesse Semiconductor Corporation ("Vitesse") and individual defendants Louis R. Tomasetta ("Tomasetta"), Eugene F. Hovanec ("Hovanec"), Yatin D. Mody ("Mody"), and Nicole R. Kaplan ("Kaplan") (collectively, "Defendants"), is approved.
4. The payment of current and future incidental expenses of Distribution Agent ~~is~~ *Berdon Claims Administration LLC ("Berdon")* is authorized. Berdon shall not accept compensation for its services in distributing the Fair Funds in this matter, thereby maximizing the amount of money returned to harmed investors and maximizing efficiency in distributing money to those same harmed investors as in the Class Action. Berdon shall be paid for minor expenses incurred in mailing the checks to harmed investors.

Dated:

10/22/16


UNITED STATES DISTRICT JUDGE