

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action NO. 21-cv-02870-CMA

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

v.

ANN M. VICK,

Defendant.

---

PLAINTIFF'S ORDER ESTABLISHING A FAIR FUND, APPOINTING A  
DISTRIBUTION AGENT, APPOINTING A TAX ADMINISTRATOR, AND  
AUTHORIZING PAYMENT OF TAX RELATED FEES, EXPENSES, AND  
OBLIGATIONS

---

The Court having reviewed the Motion of Plaintiff Securities and Exchange Commission ("SEC" or "Commission") to establish a Fair Fund, appoint Commission attorney Keshia W. Ellis as the Distribution Agent, appoint Heffler Radetich & Saitta LLP ("HRS") as Tax Administrator, and authorize the SEC to approve payment of the tax obligations of the Fair Fund and related taxes, fees and expenses of the Tax Administrator from the Fair Fund without further Court Order (the "Motion")( Doc. # 28), and for good cause shown,

IT IS HEREBY ORDERED:

1. The Motion (Doc. # 28) is GRANTED.
2. A Fair Fund is created 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] for the \$871,050.33 in funds collected through garnishment and applied to the Final Judgment against the Defendant (the “Fair Fund”). Any interest and earnings on the Fair Fund and any future funds collected pursuant to the Final Judgment will be added to the Fair Fund and used for the benefit of harmed investors.

3. Keshia W. Ellis, an attorney employed by the Commission, is appointed as Distribution Agent to administer and implement the distribution of the Fair Fund pursuant to a plan of distribution.
4. The Fair Fund constitutes 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.
5. Heffler, Radetich & Saitta LLP is appointed as Tax Administrator (“HRS” or “Tax Administrator”) to execute all income tax reporting requirements, including the preparation and filing of tax returns for the Fair Fund and ensuring that the Fair Fund 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.
6. HRS shall be designated the Tax Administrator of the 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 (a) obtaining a tax payer identification number, (b) filing applicable federal, state, and local tax returns and paying taxes reported thereon out of the Fair Fund, and (c) satisfying any information,

reporting, or withholding requirements imposed on distributions from the 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 Commission staff.

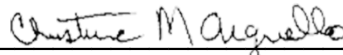
7. The Tax Administrator shall be entitled to charge reasonable fees and expenses for tax compliance services in accordance with its agreement with the Commission for Tax Years 2022-2024. The Tax Administrator shall, at such times that it deems appropriate, submit a request to the Commission staff for payment of fees and expenses from the Fair Fund.
8. At such times as the Tax Administrator deems necessary to fulfill the tax obligations of the Fair Fund, the Tax Administrator may submit a request to the Commission staff to pay the tax obligations of the Fair Fund from the Fair Fund.
9. The Commission staff is authorized to approve and arrange payment of all tax obligations owed by the Fair Fund and the fees and expenses of the Tax Administrator directly from the Fair Fund without further order of the Court. The Tax Administrator will submit invoices of all fees and expenses incurred in connection with its respective duties to the Commission staff for review and, as appropriate, payment from the Fair Fund. All payments will be reflected in the final accounting once the distribution is complete.
10. Payments to the Tax Administrator shall be made payable to Heffler, Radetich & Saitta LLP, 1515 Market Street, Suite 1700, Philadelphia, PA 19102.
11. The Tax Administrator may be removed *sua sponte* at any time by the Court or upon motion of the SEC and replaced with a successor. In the event the Tax

Administrator decides to resign, the resigning entity must first give written notice to the SEC's counsel of record and the Court of its intention, and resignation, if permitted, will not be effective until the Court has appointed a successor. The resigning entity will then follow instructions from the Court or a successor for relinquishing its duties, including all records related to Fair Fund monies and property. Unless otherwise ordered, the resigning entity will within 30 days of the notice of resignation or removal, file with the Court a final accounting and a report of its activities, and provide any other information requested by the SEC, the Court, or the successor.

12. 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 the Plan of Distribution or other Court order.

DATED: October 25, 2022

BY THE COURT:



---

CHRISTINE M. ARGUELLO  
Senior United States District Judge