

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 95873 / September 22, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-19817

In the Matter of	:	ORDER AUTHORIZING THE TRANSFER TO THE U.S. TREASURY OF THE REMAINING FUNDS AND ANY FUNDS RETURNED TO THE FAIR FUND IN THE FUTURE AND TERMINATING THE FAIR FUND
Oxbow Advisors, LLC,	:	
Respondent.	:	
	:	
	:	

On May 29, 2020, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”)¹ against Oxbow Advisors, LLC (the “Respondent” or “Oxbow”). In the Order, the Commission found that from January 2014 through March 2019 (the “Relevant Period”), Oxbow held for advisory clients mutual fund share classes that charged 12b-1 fees instead of lower-cost share classes of the same funds that were available to the clients. During the Relevant Period, Oxbow’s investment adviser representatives (“IARs”), acting in their capacity as registered representatives of affiliated registered broker-dealer Herndon Plant Oakley, Ltd., received 12b-1 fees in connection with these investments, but Oxbow did not adequately disclose this conflict of interest in its Form ADV brochures or otherwise. In addition, Oxbow failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Investment Advisers Act of 1940 and the rules thereunder in connection with its mutual fund share class selection practices. The Commission ordered the Respondent to pay \$200,000.00 in disgorgement, \$31,958.25 in prejudgment interest, and a \$90,000.00 civil money penalty, for a total of \$321,958.25. The Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty paid, along with the disgorgement and interest paid, could be distributed to harmed investors (the “Fair Fund”).

Pursuant to the Order, the Respondent was responsible for administering the Fair Fund at its own expense pursuant to a calculation specified in the Order. The Respondent fully compensated harmed current and former clients for their losses, plus reasonable interest. No *de minimis* threshold was applied. The Respondent issued 352 checks, totaling \$318,591.97, of which \$318,360.68 was successfully disbursed (99.9%) to recipients. A total of \$3,598.48

¹ Advisers Act Rel. No. 5512 (May 29, 2020).

remains in the Fair Fund, representing uncashed checks, returned funds, distributions owed to parties prohibited by the Order, interest earned, other residual amounts (e.g. amounts resulting from rounding), and monies paid pursuant to the Order that were not needed to fully compensate investors.

The Order further requires the Respondent to provide a final accounting to the Commission staff for submission to the Commission for approval. Upon approval of the final accounting, all remaining amounts in the Fair Fund, and any funds returned in the future, are to be sent to the U.S. Treasury. The final accounting has been submitted to the Commission for approval, as required by the Order, and has been approved.

Accordingly, it is ORDERED that:

- A. the remaining funds in the amount of \$3,598.48, and any funds returned to the Fair Fund in the future, shall be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 [15 U.S. Code § 78u-6(g)(3)]; and
- B. the Fair Fund is terminated.

By the Commission.

Vanessa A. Countryman
Secretary