

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 95941 / September 29, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-16729

In the Matter of

MILLER ENERGY RESOURCES,
INC., PAUL W. BOYD, CPA,
DAVID M. HALL, AND
CARLTON W. VOGT, III, CPA,

Respondents.

ORDER APPOINTING
FUND ADMINISTRATOR AND
SETTING ADMINISTRATOR'S
BOND AMOUNT

ADMINISTRATIVE PROCEEDING
File No. 3-18110

In the Matter of

KPMG LLP and JOHN
RIORDAN, CPA,

Respondents.

On August 6, 2015, the Commission instituted public administrative and cease-and-desist proceedings against Miller Energy Resources, Inc. (“Miller Energy”); two former officers, Paul W. Boyd, CPA (“Boyd”) and David M. Hall (“Hall”); and Carlton W. Vogt, III, CPA (“Vogt”), the engagement partner at a now defunct independent audit firm who audited the company’s

fiscal 2010 financial statements (the “Miller Energy AP”).¹ The proceedings were later resolved by separate settled orders (collectively, the “Orders”), as to Miller Energy on January 12, 2016² and as to Boyd,³ Hall,⁴ and Vogt⁵ on June 7, 2016.

In the Orders, the Commission found financial accounting and reporting fraud, as well as audit failures, related to the valuation of certain oil and gas assets in Alaska (the “Alaska Assets”) acquired by Miller Energy. Miller Energy, an oil and gas company headquartered in Houston, Texas, purchased these assets for \$2.25 million in cash – along with the assumption of certain liabilities it valued at approximately \$2 million – during a competitive bid in a bankruptcy proceeding in December 2009. Miller Energy subsequently reported those assets at an overstated value of \$480 million, and recognized a one-time “bargain purchase” gain of \$277 million for its fiscal third quarter ended January 2010 and fiscal year ended April 2010.

The Commission ordered Miller Energy to pay a \$5,000,000 civil money penalty which could be satisfied by a grant to the Commission of an unsecured claim in the Miller Energy’s Joint Plan of Reorganization, Case No. 15-00236, pending in the United States Bankruptcy Court for the District of Alaska (the “Bankruptcy Case”). Any funds collected were to be held pending a decision whether the Commission, in its discretion, would seek to distribute the funds or

¹ See Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 4C and 21C of the Securities Exchange Act of 1934, and Rule 102(e) of the Commission’s Rules of Practice, Securities Act Rel. No. 9881 (Aug. 6, 2015).

² Order Making Findings and Imposing a Cease-and-Desist Order and Penalties Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934 as to Miller Energy Resources, Inc., Securities Act Rel. No. 10002 (Jan. 12, 2016).

³ Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 8A of the Securities Act of 1933, Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice as to Paul W. Boyd, CPA, Securities Act Rel. No. 10089 (June 7, 2016).

⁴ Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934 as to David M. Hall, Securities Act Rel. No. 10090 (June 7, 2016).

⁵ Order Making Findings and Imposing Remedial Sanctions Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice as to Carlton W. Vogt, III, CPA, Securities Act Rel. No. 10091 (June 7, 2016).

transfer them to the general fund of the U.S. Treasury. Hall and Boyd were each ordered to pay a \$125,000 civil penalty to the Commission for transfer to the U.S. Treasury.⁶

To date, the Commission has collected \$982,125.92 in accordance with the Orders.

On August 15, 2017, in a related matter (the “KPMG AP”), the Commission issued the KPMG Order⁷ against Miller Energy’s successor auditor, KPMG LLP (“KPMG”), and engagement partner, John Riordan, CPA (“Riordan”) in connection with improper professional conduct and securities violations related to an audit of Miller Energy’s financial statements.

In the KPMG Order, among other things, the Commission ordered KPMG to pay disgorgement of \$4,675,680, prejudgment interest of \$558,319, and a \$1,000,000 civil money penalty, and Riordan was ordered to pay a \$25,000 civil penalty, which would be held pending a decision whether the Commission, in its discretion, would seek to distribute the funds or transfer them to the general fund of the U.S. Treasury. KPMG and Riordan have paid in full.

On February 23, 2022, the Commission issued an order that created a single Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, for the funds collected in the KPMG AP and Miller Energy AP, including any future funds collected in the Miller Energy AP, for the purpose of distribution to harmed investors (the “Fair Fund”). The Commission further ordered the civil money penalties collected from Hall and Boyd be recovered from the U.S. Treasury and be added to the Fair Fund.

The Fair Fund consists of the \$7,241,124.92 in disgorgement, prejudgment interest, and civil money penalties collected in the Miller Energy AP and KPMG AP, and any additional

⁶ No monetary sanctions were ordered against Vogt.

⁷ Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, Exchange Act Rel. No. 81396 (Aug. 15, 2017).

monies received from the Respondents, pursuant to the Orders, will be added to the Fair Fund.⁸

The Fair Fund has been deposited in an interest-bearing account at the U.S. Department of the Treasury's Bureau of the Fiscal Service, and any accrued interest will be for the benefit of the Fair Fund.

The Division of Enforcement now seeks the appointment of Guidehouse Inc., Baker & Hostetler LLP, and PACE Claims Services LLC ("GBP") as the fund administrator and requests that the administrator's bond be set at \$7,241,124.92. GBP is included in the Commission's approved pool of administrators.

Accordingly, IT IS HEREBY ORDERED that GBP is appointed as the fund administrator, pursuant to Rule 1105(a) of the Commission's Rules on Fair Fund and Disgorgement Plans ("Commission's Rules"),⁹ and shall obtain a bond in accordance with Rule 1105(c) of the Commission's Rules,¹⁰ in the amount of \$7,241,124.92.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.¹¹

Vanessa A. Countryman
Secretary

⁸ Order Establishing a Fair Fund, Exchange Act Rel. No. 94300 (Feb. 23, 2022).

⁹ 17 C.F.R. § 201.1105(a).

¹⁰ 17 C.F.R. § 201.1105(c).

¹¹ 17 C.F.R. § 200.30-4(a)(17).