
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 8:23-cv-00338-FWS-JDE

Date: January 4, 2024

Title: Sec. and Exch. Comm’n v. Energy and Env’t Invs., LLC *et al.*

Present: **HONORABLE FRED W. SLAUGHTER, UNITED STATES DISTRICT JUDGE**

Melissa H. Kunig
Deputy Clerk

N/A
Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

Not Present

Not Present

**PROCEEDINGS: ORDER CREATING A FAIR FUND, APPOINTING A TAX
ADMINISTRATOR, AND AUTHORIZING FUTURE PAYMENT OF
TAX OBLIGATIONS, FEES, AND EXPENSES [26]**

The Court, having reviewed the unopposed Motion of Plaintiff Securities and Exchange Commission (“SEC”) for an Order creating a Fair Fund, appointing Heffler, Radetich & Saitta, LLP as tax administrator (“Tax Administrator”), and authorizing future payment of the tax obligations and related fees and expenses of the Tax Administrator (Dkt. 26 (“Motion”)), finds good cause and consequently the Motion is **GRANTED**. Accordingly, the court **ORDERS** as follows:

Fair Fund

1. A Fair Fund is established pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7246, for the funds collected in the captioned matter (the “Fair Fund”). Any interest or earnings on the Fair Fund, and any additional timely collections or receipt of funds directed to the Fair Fund, will be added to, and become a part of, the Fair Fund to be used for the benefit of harmed investors.

Tax Administrator

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2. Heffler, Radetich & Saitta, LLP is appointed Tax Administrator to execute all income tax reporting requirements, including the preparation and filing of tax returns, for the Fair Fund.
3. Heffler, Radetich & Saitta, LLP shall be designated the Tax Administrator of the Fair Fund, pursuant to Section 468B(g) of the Internal Revenue Code (“IRC”), 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 taxpayer 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. Upon request, the Tax Administrator shall provide copies of any filings to the SEC’s counsel of record.
4. Heffler, Radetich & Saitta, LLP 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 Heffler, Radetich & Saitta, LLP decides to resign, it will first give written notice to the court and to the SEC’s counsel of such intention, and the resignation, if permitted, will not be effective until the court appoints a successor.
5. The Tax Administrator shall, at such times as the Tax Administrator deems necessary to fulfill the tax obligations of the Fair Fund, submit a request to the SEC’s counsel of record for payment from the Fair Fund of any tax obligations of the Fair Fund.
6. The Tax Administrator shall be entitled to charge reasonable fees for tax compliance services and related expenses in accordance with its agreement with the SEC for the Tax Years 2022 through 2024. The Tax Administrator shall, at such times as the Tax Administrator deems appropriate, submit a request to the SEC’s counsel of record for payment of fees and expenses from the Fair Fund.
7. The SEC 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

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without further approval of this court. All payments for taxes and the fees and expenses of the Tax Administrator shall be reported to the court in a final accounting.

8. The Tax Administrator shall complete a final accounting report, in a format to be provided by the SEC, when the Tax Administrator's duties are completed. The SEC shall file the final accounting report with the court once it has been reviewed by the SEC, and the SEC has determined it has no objections.
9. 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 distribution plan or other court order.

IT IS SO ORDERED.

Initials of Deputy Clerk: mku

CC: Fiscal