

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 71882 / April 4, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11579**

**In the Matter of**

**INVIVA, INC. AND  
JEFFERSON NATIONAL LIFE  
INSURANCE COMPANY,**

**Respondents.**

**ORDER AUTHORIZING THE TRANSFER  
OF REMAINING FUNDS AND ANY  
FUTURE FUNDS RETURNED TO THE  
FAIR FUND TO THE U.S. TREASURY,  
DISCHARGING THE FUND  
ADMINISTRATOR AND TERMINATING  
THE FAIR FUND**

On August 9, 2004, the Commission issued an Order instituting and simultaneously settling public administrative and cease-and-desist proceedings (the “Order”) against Inviva, Inc. (“Inviva”) and Jefferson National Life Insurance Company (“Jefferson National”) (collectively, “Respondents”) in this matter.<sup>1</sup> In the Order, the Commission found that from around October 2002 through September 2003, the Respondents allowed a group of hedge funds and customers of registered representatives to engage in market timing trading on behalf of Jefferson National variable annuity contract owners. The Order established a Fair Fund, comprised of \$5 million in disgorgement and penalties paid by Respondents, and provided that the Fair Fund was to be distributed pursuant to a plan developed by an Independent Distribution Consultant. On February 26, 2010, the Commission issued an order approving the distribution plan.<sup>2</sup>

The Plan of Distribution (“Plan”) provides that the Fair Fund, plus any accrued interest, minus taxes, fees, and expenses, be distributed by the Fund Administrator to investment company portfolios harmed by the market timing activity, according to the methodology set forth in the Plan. On June 4, 2010, the Commission entered an order directing disbursement of \$5,461,603.97,<sup>3</sup> and on June 17, 2010 this amount was distributed to the twenty-three (23) eligible investment company portfolios. All distributions have been made to and accepted by the funds, and no amounts were returned to the Fair Fund.

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<sup>1</sup> See Securities Act Release No. 8456 (Aug. 9, 2004).

<sup>2</sup> See Exchange Act Release No. 61600 (Feb. 26, 2010).

<sup>3</sup> See Exchange Act Release No. 62228 (Jun. 4, 2010).

The Plan provides that the Fair Fund shall be eligible for termination, and the Fund Administrator shall be discharged, after all of the following have occurred: (1) a final accounting has been submitted by the Fund Administrator and approved by the Commission; (2) all taxes, fees and expenses have been paid, and (3) any amount remaining in the Fair Fund has been received by the Commission. A final accounting, which was submitted to the Commission for approval as required by Rule 1105(f) of the Commission's Rules on Fair Fund and Disgorgement Plans and as set forth in the Plan, is now approved. Staff has verified that all taxes, fees, and expenses have been paid, and the Commission is in possession of the remaining Fair Fund monies.

Accordingly, IT IS ORDERED that:

- A. The remaining Fair Fund balance of \$157.92 and any future funds returned to the Fair Fund shall be transferred to the U.S. Treasury;
- B. The Fair Fund is terminated; and
- C. The Fund Administrator, William Randolph Thompson, is discharged;

By the Commission.

Lynn M. Powalski  
Deputy Secretary