

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82000 / November 2, 2017

ADMINISTRATIVE PROCEEDING
FILE No. 3-11793

In the Matter of

**SOUTHWEST SECURITIES, INC.,
DANIEL R. LELAND, KERRY M.
RIGDON, and KEVIN J. MARSH,**

Respondents.

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

On January 10, 2005, the United States Securities and Exchange Commission (“Commission”) issued an Order Instituting Public Administrative Proceedings, Making Findings, and Imposing Remedial Sanctions, Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, and Instituting Cease-and-Desist Proceedings and Imposing a Cease-and-Desist Order, Pursuant to Section 21C of the Securities Exchange Act of 1934 and Section 9(f) of the Investment Company Act of 1940 (the “Order”)¹ against Southwest Securities, Inc. (“Southwest”), Daniel R. Leland, Kerry M. Rigdon, and Kevin J. Marsh (collectively, the “Respondents”). The Commission found that, between October 2002 and September 2003, the Respondents failed to reasonably supervise three registered representatives with a view to preventing their participation in a scheme to facilitate deceptive market timing and late trading in certain mutual funds (the “Affected Funds”). The Commission ordered the Respondents to pay, in the aggregate, \$10,275,003 in disgorgement, prejudgment interest, and civil penalties. The Order further established a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, for the total amount ordered (the “Fair Fund”), to be distributed pursuant to a Plan of Distribution.

On September 1, 2010, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment² pursuant to Rule 1103 of the Commission’s

¹ Exchange Act Rel. No. 51002 (Jan. 10, 2005).

² Exchange Act Rel. No. 62809 (Sept. 1, 2010).

Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1103. Also on September 1, 2010, the Commission issued an Order³ appointing Gilardi & Co., L.L.C. as the Fund Administrator (the “Fund Administrator”) and waiving the bond requirement. The Commission received no comments and on October 25, 2010, the Commission issued an Order Approving Plan of Distribution.⁴

The Plan provided for distribution of approximately \$6.3 million to the asset bases of the Affected Funds, comprised of approximately \$5.2 million in full compensation for share value dilution, plus approximately \$1.1 million in interest. Under the Plan, only Affected Funds that responded to efforts by the Fund Administrator for information and certified that distributed funds would be deposited into the asset base of the Affected Fund (the “Certification”) would be eligible for a distribution. Any remainder in the Fair Fund after distribution, including Respondents’ payments in excess of calculated dilution and interest, uncashed payments, returned funds, and accumulated interest, was to be paid to Treasury.

The Fund Administrator identified 312 Affected Funds, of which 236 responded and provided the Certification. On August 2, 2011, the Commission issued an Order⁵ directing the disbursement of approximately \$5 million to the asset bases of the 236 Affected Funds in accordance with the Plan. Of the disbursed amount, over \$742,000, representing at least 38 Affected Funds, was returned as undeliverable or remained uncashed. The Fund Administrator performed additional research and outreach efforts, resulting in the distribution of an additional \$379,000, or more than 50% of the uncashed checks. Ultimately, approximately \$4.7 million, or over 92% of the disbursed funds, was distributed to Affected Fund shareholders through the asset bases of Affected Funds. The residual is approximately \$6.5 million, comprised of the Respondents’ payments of approximately \$4 million in excess of calculated dilution and interest; approximately \$1.2 million allocated to Affected Funds ineligible to receive a distribution under the Plan under the Certification Process; uncashed payments; returned funds; and accumulated interest.

The Plan provides that the Fair Fund shall be eligible for termination after all of the following have occurred: (1) the final accounting in Commission standard accounting format has been approved by the Commission; (2) all taxes and fees have been paid; and (3) all remaining funds have been received by the Commission. A final accounting, which was submitted to the Commission for approval as required by Rule 1105(f) of the

³ See Order Approving Distribution Plan, Appointing a Fund Administrator and Waiving the Bond Requirement, Exchange Act Rel. No. 62910 (Sept. 1, 2010).

⁴ Exchange Act Rel. No. 63172 (Oct. 25, 2010).

⁵ See Order Directing Disbursement of Fair Fund, Exchange Act Rel. No. 65016 (Aug. 2, 2011).

Rules, 17 C.F.R. § 201.1105(f), and as set forth in the Plan, is now approved. The Commission staff has verified that all taxes, fees, and expenses have been paid, and the Commission is in possession of the remaining funds.

Accordingly, it is ORDERED that:

- A. The remaining Fair Fund balance of \$6,544,967.41 and any funds returned to the Fair Fund in the future, shall be transferred to the U.S. Treasury;
- B. The Fund Administrator, Gilardi & Co., L.L.C., is discharged; and
- C. The Fair Fund is terminated.

By the Commission.

Brent J. Fields
Secretary