

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82410 / December 27, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17791

In the Matter of :

Orthofix International N.V. :

Respondent. :

**ORDER CONSOLIDATING
FAIR FUNDS, APPOINTING
FUND ADMINISTRATOR,
AND SETTING
ADMINISTRATOR BOND
AMOUNT**

ADMINISTRATIVE PROCEEDING
File No. 3-17792

In the Matter of :

Jeffrey Hammel, CPA :

Respondent. :

ADMINISTRATIVE PROCEEDING
File No. 3-17793

In the Matter of :

Brian McCollum :

Respondent. :

ADMINISTRATIVE PROCEEDING
3-17794

In the Matter of :

Kenneth Mack and Bryan McMillan :

Respondents. :

On January 18, 2017, the Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Orthofix Order”)¹ against Orthofix International N.V. (“Orthofix”). The Orthofix Order required Orthofix to pay an \$8,250,000.00 civil money penalty, and created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, so the penalties could be distributed to harmed investors (the “Orthofix Fair Fund”). The Orthofix Order further provided that the Orthofix Fair Fund could receive funds from and/or be combined with fair funds established for civil penalties paid by other respondents for conduct arising in relation to the violative conduct at issue in the Orthofix Order.

The Commission simultaneously issued three settled orders (together with the Orthofix Order, the “Orders”) in related matters (collectively, the “Related Matters”) against respondents Jeffrey Hammel, CPA (“Hammel”),² Brian McCollum (“McCollum”),³ and Kenneth Mack (“Mack”) and Bryan McMillan (“McMillan”).⁴ Hammel’s order required him to pay a \$20,000.00 civil money penalty, and McCollum’s order required him to pay a \$35,000.00 civil penalty. Mack and McMillan’s order required them to pay a \$40,000.00 and \$25,000.00 civil money penalty, respectively. Each order created a fair fund and provided that it could be added or combined with the Orthofix Fair Fund and/or may be added to or combined with fair funds

¹ Securities Act Rel. No. 10281 (Jan. 18, 2017).

² 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, Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order, Securities Act Rel. No. 10282 (Jan. 18, 2017), Admin. Proc. File No. 3-17792.

³ See Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Cease-and-Desist Orders and Remedies, Exchange Act Rel. No. 79819 (Jan. 18, 2017), Admin. Proc. File No. 3-17793.

⁴ See Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Cease-and-Desist Orders and Penalties, Exchange Act Rel. No. 79820 (Jan. 18, 2017), Admin. Proc. File No. 3-17794.

established for the civil penalties paid by other respondents for conduct arising in relation to the violative conduct at issue in the order, so that the combined fair funds could be distributed to harmed investors affected by the same violative conduct.

Orthofix has paid \$8,250,000.00 as ordered into the Orthofix Fair Fund, and a total of \$120,000.00 has been paid, as ordered, in the Related Matters, for a total of \$8,370,000.00, for distribution to harmed investors.

The Division of Enforcement recommends that the Fair Funds created pursuant to the Orders be consolidated into a single Fair Fund for the purposes of distributing the funds for the benefit of the investors harmed by the conduct described in the Orders.

The Division of Enforcement now seeks the appointment of Strategic Claims Services, Inc. (“SCS”) as the fund administrator and requests that the administrator’s bond be set at \$8,370,000.00, as required by Rules 1105(a) and 1105(c) of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”).⁵ SCS is not included in the Commission’s approved pool of administrators. However, appointing SCS will result in significant economies of time and expense because SCS serves as a class administrator in a class action distribution arising out of the same conduct and similar time period.

Accordingly, it is hereby ORDERED, that:

- A. the assets of the Fair Funds created pursuant to the Orders, and any interest accrued on those assets, are consolidated into a single Fair Fund for distribution to harmed investors;
- B. pursuant to Rule 1105(a) of the Commission’s Rules, 17 C.F.R. § 201.1105(a), SCS is appointed as the fund administrator and

⁵ 17 C.F.R. §§ 201.1105(a) and 201.1105(c).

C. the administrator shall obtain a bond in the amount of \$8,370,000.00, in accordance with Rule 1105(c) of the Commission's Rules, 17 C.F.R.

§ 201.1105(c).

By the Commission.

Brent J. Fields
Secretary