



position for more than one day. Myers carried out his cherry-picking scheme with regard to several securities, but was most active with an inverse and leveraged exchange traded fund called ProShares UltraShort Financials or SKF. Neither MiddleCove nor Myers disclosed to clients that they were engaged in cherry-picking and that they would favor Myers's accounts in the allocation of appreciated securities. As a result of his fraud, Myers realized ill-gotten gains of \$462,022. The Order required Respondents to pay disgorgement of \$462,022, prejudgment interest of \$26,096, and a civil money penalty of \$300,000. Neither MiddleCove nor Meyers made any payment toward their monetary obligations, accordingly, on March 20, 2013, the Commission filed an Application for an Order Compelling Respondents to Show Cause Why a Judgment Should Not Be Entered Against Them Pursuant to Section 21(e) of the Securities Exchange Act of 1934 with the United States District Court for the District of Connecticut (Case No. 13-mc-00045). MiddleCove and Myers failed to appear, plead, or otherwise defend the District Court action, thus, on June 28, 2013 the Commission filed a Motion for Default Judgment. On July 11, 2013, the court issued an order that entered a Default Judgment against MiddleCove and Meyers. To date, the Commission has collected \$33,086.05 towards the Respondents' Default Judgment (the "Distribution Fund").

The Distribution Fund is subject to the continuing jurisdiction and control of the Commission and the Distribution Fund has been deposited at the United States Department of Treasury's ("U.S. Treasury") Bureau of the Fiscal Service ("BFS") for investment. Other than potential interest income from the BFS investment, the Commission does not anticipate that the Distribution Fund will receive additional funds.

## **OPPORTUNITY FOR COMMENT**

Pursuant to this Notice, all interested persons are advised that they may obtain a copy of the Plan from the Commission's public website at <http://www.sec.gov/litigation/fairfundlist.htm>. Interested persons may also obtain a written copy of the Plan by submitting a written request to Michael S. Lim, Esq., United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5876. All persons who desire to comment on the Plan may submit their comments, in writing, no later than thirty (30) days from the date of this Notice:

1. to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090;
2. by using the Commission's Internet comment form (<http://www.sec.gov/litigation/fairfundlist.htm>); or
3. by sending an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov).

Comments submitted should include "Administrative Proceeding File No. 3-14993" in the subject line. Comments received will be publicly available. Persons should submit only information that they wish to make publicly available.

## **THE PLAN**

The Net Distribution Fund is comprised of the monies collected from the Respondents, plus any accumulated interest, less any federal, state, or local taxes and fees and expenses. The Plan provides for distribution of the Net Distribution Fund to certain harmed parties previously identified by Commission staff in accordance with paragraph 7 of the Plan.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields  
Secretary