

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86100 / June 13, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-17791

In the Matter of

Orthofix International N.V.

Respondent.

**ORDER APPROVING APPLICATION
OF FUND ADMINISTRATOR FOR
PAYMENT OF FEES AND EXPENSES
AND APPROVAL OF FUTURE FEES
AND EXPENSES**

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
File No. 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, so the penalty 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 in related matters (collectively, the “Related Matters”) against Hammel,² McCollum,³ and Mack and 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 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.

On December 27, 2017, the Commission issued an order consolidating the fair funds created in the Related Matters with the Orthofix Fair Fund (the “Fair Fund”) and appointed Strategic Claims Services, Inc. as the fund administrator.⁵ The Orthofix Fair Fund has a total of \$8,370,000.00 for distribution to harmed investors.

On April 30, 2018, the Notice of Proposed Plan of Distribution and Opportunity for Comment (the “Notice”)⁶ was published, pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Commission’s Rules”), 17 C.F.R. § 201.1103. The Notice advised interested persons that they could obtain a copy of the Proposed Plan of Distribution (the “Plan”) from the Commission’s public website or by submitting a written request to Keshia W. Ellis, United States Securities and Exchange Commission, Office of

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.

⁵ See Order Consolidating Fair Funds, Appointing Fund Administrator, and Setting Administrator Bond Amount, Exchange Act Rel. No. 82410 (Dec. 27, 2017).

⁶ Exchange Act Rel. No. 83133 (Apr. 30, 2018).

Distributions, 100 F Street, NE, Washington, DC 20549-5876. All persons who desired to comment on the Plan could submit their comments, in writing, no later than May 30, 2018. No comments were submitted within the thirty (30) day comment period. On June 22, 2018, the Commission issued an Order Approving Distribution Plan.⁷

The Plan provides that the fees and expenses for the administration of the Fair Fund will be paid from the Fair Fund. In accordance with Rule 1105(d) of the Commission's Rules, 17 C.F.R. § 201.1105(d), the Fund Administrator has submitted three invoices totaling \$101,295.06 to Commission staff that covers the period from its appointment through January 30, 2019. The Commission staff has reviewed the Fund Administrator's invoices, confirms that the services detailed therein have been provided, and finds the fees and expenses of \$101,295.06 to be reasonable. The Commission staff has requested that the Commission authorize the Office of Financial Management ("OFM") to pay the Fund Administrator's invoiced fees and expenses of \$101,295.06 from the Fair Fund.

Additionally, to expedite and streamline the process for future payments, the Commission staff has requested that the Commission authorize OFM to pay, at the direction of the Assistant Director of the Office of Distributions ("Assistant Director"), the Fund Administrator's future fees and expenses, so long as the total amount paid to the Fund Administrator including the invoice to be paid, does not exceed the total amount of the cost proposal submitted by the Fund Administrator.

Accordingly, it is hereby ORDERED, pursuant to Rule 1105(d) of the Commission's Rules, 17 C.F.R. § 201.1105(d), that OFM pay the Fund Administrator's fees and expenses in the amount of \$101,295.06. Further, OFM is authorized to pay, at the direction of the Assistant Director, any future fees and expenses from the Fair Fund, so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the cost proposal submitted by the Fund Administrator.

By the Commission.

Vanessa A. Countryman
Acting Secretary

⁷ Exchange Act Rel. No. 83497 (June 22, 2018).