

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 86602 / August 8, 2019**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13847**

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<b>In the Matter of</b>	:	
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<b>Morgan Asset Management</b>	:	<b>ORDER AUTHORIZING THE TRANSFER TO</b>
<b>Inc., Morgan Keegan &amp;</b>	:	<b>U.S. TREASURY OF THE REMAINING FUNDS</b>
<b>Company, Inc., James C.</b>	:	<b>AND ANY FUNDS RETURNED TO THE FAIR</b>
<b>Kelsoe, Jr., and Joseph</b>	:	<b>FUND IN THE FUTURE, DISCHARGING THE</b>
<b>Thompson Weller, CPA</b>	:	<b>FUND ADMINISTRATOR, CANCELING FUND</b>
	:	<b>ADMINISTRATOR'S BOND, AND</b>
	:	<b>TERMINATING THE FAIR FUND</b>
<b>Respondents.</b>	:	
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On June 22, 2011, the Commission issued an Order<sup>1</sup> settling administrative and cease-and-desist proceedings instituted on April 7, 2010 against Morgan Asset Management Inc., Morgan Keegan & Company, Inc., James C. Kelsoe, Jr., and Joseph Thompson Weller, CPA, involving Respondents' fraudulent valuation of certain subprime mortgage-backed securities in the portfolios of five (5) funds managed by Respondents. Among other things, the Commission ordered that Respondents pay a combined total of \$100,300,000 in disgorgement, prejudgment interest, and civil money penalties. The Order also created the Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid, along with the disgorgement and prejudgment interest, could be distributed to investors harmed by the Respondents' conduct described in the Order. The Order further required that Respondents are responsible for all reasonable fees and expenses associated with the distribution of the Fair Fund.

Respondents paid an aggregate of \$100,300,000, as ordered, into the Fair Fund. The Fair Fund was deposited in an interest-bearing account at the U.S. Treasury pending distribution.

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<sup>1</sup> Corrected Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Sections 9(b) and 9(f) of the Investment Company Act of 1940, and Imposing Suspension Pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(iii) of the Commission's Rules of Practice, Exchange Act Rel. No. 64720 (June 22, 2011).

On August 30, 2011, the Commission issued an order appointing A.B. Data, Ltd. as the Fund Administrator of the Fair Fund.<sup>2</sup>

On April 3, 2013, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment (“Notice”),<sup>3</sup> pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Commission Rules”), 17 C.F.R. § 201.1103, and simultaneously posted the Proposed Plan of Distribution (“Proposed Plan”). The Commission received six comments, three within the thirty (30) day comment period and three after, in response to the Notice. On August 16, 2013, after careful consideration of the six comments, the Commission issued an order approving the Proposed Plan as modified therein and setting the Fund Administrator’s bond amount at \$100,300,000,<sup>4</sup> and simultaneously posted the Modified Plan of Distribution (“Modified Plan”).

The Modified Plan sets forth a methodology for allocating the Fair Fund comprised of the \$100.3 million paid by the Respondents and accrued interest earned on the funds. Under the Modified Plan, Eligible Claimants<sup>5</sup> shall be compensated a proportionate share of the Fair Fund for losses (a) proximately caused to shareholders who purchased Funds at inflated prices during the Relevant Period and did not sell shares at similarly inflated prices, and (b) losses for shareholders who purchased shares prior to the Relevant Period but who, if proper disclosure had been made and had the shares been priced properly during the Relevant Period, potentially would have sold their shares.

On July 11, 2014, the Commission issued an Order Directing Disbursement of Fair Fund (“Disbursement Order”).<sup>6</sup> Pursuant to the Disbursement Order, on or about July 25, 2014, the Fund Administrator disbursed \$100,398,383.91 to 21,186 Eligible Claimants, after which there was approximately \$464,000 left in the Fair Fund (or approximately 0.46% of the Fair Fund) primarily as a result of the Fair Fund’s provisions voiding certain uncashed payments.<sup>7</sup>

The Fund Administrator had received twenty-eight (28) late claims that would have been eligible for a distribution if received in a timely manner. Because the amount remaining in the Fair Fund was too small to make a meaningful additional distribution to the 21,186 Eligible Claimants who filed timely claims, the Fund Administrator recommended that the Commission allow the previously noted twenty-eight (28) late claimants to be treated as Eligible Claimants.<sup>8</sup> On August 11, 2016, the Commission issued a Second Order Directing Disbursement of Fair

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<sup>2</sup> Order Appointing Fund Administrator, Exchange Act Rel. No. 65227 (Aug. 30, 2011).

<sup>3</sup> Exchange Act Rel. No. 69288 (Apr. 3, 2013).

<sup>4</sup> Order Approving Modified Plan and Setting Fund Administrator Bond Amount, Exchange Act Rel. No. 70222 (Aug. 16, 2013). On February 15, 2017, the Commission issued an order reducing the Fund Administrator’s bond amount going forward to \$162,000 (*see* Exchange Act Rel. No. 80048 (Feb. 15, 2017)).

<sup>5</sup> Capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Modified Plan.

<sup>6</sup> Exchange Act Rel. No. 72599 (July 11, 2014).

<sup>7</sup> *See* Modified Plan at paragraphs 55, 62, and 63.

<sup>8</sup> The recommended treatment would be analogous to Paragraph 37 of the Modified Plan which contemplates that the Fund Administrator has the authority to extend the deadline for claimants. The paragraph provides that “[a] claim that is postmarked after the final deadline will not be accepted *unless the deadline is extended by the Administrator . . .*” (Emphasis added.) Here there was no deadline extension, but the analogous treatment recommendation was approved by the Commission.

Fund, ordering the Fund Administrator to distribute \$301,092.20 from the funds held at Huntington National Bank to the additional twenty-eight (28) Eligible Claimants.

Ultimately, a total of \$100,236,110.84 (approximately 97.4%) was successfully distributed in accordance with the Modified Plan. The Fair Fund earned approximately \$2.6 million in interest; and paid state and federal taxes of \$61,775.00, investment/bank fees of approximately \$2.4 million, and tax administration expenses of \$1,745.55. The Fair Fund currently holds \$171,387.07, which is comprised of undeliverable and uncashed checks, and accumulated interest.

The Modified Plan provides that the Fair Fund is eligible for termination and the Fund Administrator discharged after all of the following have occurred: (a) the final accounting has been submitted by the Fund Administrator for approval, and has been approved by the Commission; (b) all taxes, fees, and expenses have been paid; and (c) any amount remaining in the Fair Fund has been received by the Commission.

A final accounting, which was submitted to the Commission as required by Rule 1105(f) of the Commission's Rules, 17 C.F.R. § 201.1105(f), and as set forth in the Modified Plan, is now approved. The staff has confirmed that the Modified Plan has been fully implemented in accordance with the Commission's orders, that all taxes, fees and expenses have been paid, and that all monies remaining in the Fair Fund have been received by the Commission.<sup>9</sup>

Accordingly, it is ORDERED that:

- A. The remaining Fair Fund balance of \$171,387.07 and any funds returned to the Fair Fund in the future, shall be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934, 15 U.S. Code § 78u-6(g)(d);
- B. The Fund Administrator, A.B. Data, Ltd., is discharged;
- C. The Fund Administrator's bond is canceled; and
- D. The Fair Fund is terminated.

By the Commission.

Vanessa A. Countryman  
Secretary

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<sup>9</sup> Respondents are responsible to pay all fees and expenses of the Fund Administrator and Tax Administrator pursuant to the Order.