

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION,)

 Plaintiff,)

 v.) C.A. No. 03-CV-10658 (DPW)


GEOFFREY E. FITTS AND)
WILLIAM D. FABRI, SR.,)

 Defendants.)

~~PROPOSED~~ ORDER FOR DISTRIBUTION OF FUNDS

On August 22, 2003, Plaintiff Securities and Exchange Commission ("Commission") moved for an order approving its Proposed Plan for Distribution of Funds in this case. After ^w reviewing all the papers filed in connection with this motion, the Court is of the opinion that the Commission's motion should be Granted.

It Is Hereby Ordered that the Commission's Proposed Plan for Distribution of Funds, a copy of which is attached as Exhibit 1 to this Order, is approved.


Douglas P. Woodlock
U.S. District Judge

Dated: 8/26/03

EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

v.

C.A. No. 03-CV-10658 (DPW)

GEOFFREY E. FITTS AND
WILLIAM D. FABRI, SR.,

Defendants.

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S
PROPOSED PLAN FOR DISTRIBUTION OF FUNDS

I. Background

1. On April 10, 2003, Plaintiff Securities and Exchange Commission ("Commission") filed an action for a permanent injunction and other equitable relief against a former director of MetroWest Bank ("MetroWest"), Defendant Geoffrey E. Fitts ("Fitts"), and Fitts' friend and business associate, Defendant William D. Fabri, Sr. ("Fabri"). The Commission alleged that Fitts, who was aware that MetroWest planned to be acquired by another bank, told Fabri about the impending takeover on May 21 and 22, 2001. The Commission further alleged that on May 23, 2001, Fabri bought 3,000 shares of MetroWest common stock while in possession of material, nonpublic information concerning MetroWest, and caused another person (hereinafter referred to as "the Second Trader") to purchase 325 shares of MetroWest. The Second Trader purchased 100 shares of MetroWest on May 21, 2001 and 225 shares of MetroWest on May 25, 2001. Banknorth Group, Inc. announced its plans to acquire MetroWest

on June 11, 2001, and the share price of MetroWest increased. The Commission alleged that Fabri profited by \$10,710 and the Second Trader profited by \$1,130 as a result of their trading. The Commission further alleged that such insider trading by Fabri violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 10b-5 promulgated thereunder [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5].

2. On April 21, 2003, U.S. District Court Judge Douglas P. Woodlock entered a final judgment against Fabri, to which Fabri consented without admitting or denying the allegations in the Complaint. As part of the final judgment, Judge Woodlock: 1) permanently enjoined Fabri from violating Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder; 2) ordered Fabri to disgorge \$11,840 in profits gained as a result of the conduct alleged in the Complaint (\$10,710 for Fabri's trading and \$1,130 for the Second Trader's trading), together with prejudgment interest in the amount of \$1,278.65 (\$1,156.62 for Fabri's trading and \$122.03 for the Second Trader's trading); and, 3) ordered Fabri to pay a civil penalty in the amount of \$11,840 (\$10,710 for Fabri's trading and \$1,130 for the Second Trader's trading), pursuant to Section 21 A of the Exchange Act.

3. Fabri satisfied the disgorgement, prejudgment interest and penalty obligations under the final judgment entered against him by paying \$24,958.65 to the Clerk of this Court for deposit into the Court Registry Investment System (the "CRIS"). Those funds remain in the CRIS pending further order of this Court. The final judgment permits the Commission, by motion, to propose a plan to distribute those funds subject to the Court's approval, and pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission now submits its proposed plan (the "Plan") for distributing the funds to defrauded

investors.

11. Definitions

As used herein, the following definitions shall apply:

4. "Fabri Disgorgement Fund" shall mean the \$22,576.62 Fabri paid the Clerk of this Court for deposit into the CRIS (which consists of \$10,710 in disgorgement for his trading, \$1,156.62 in prejudgment interest for his trading, a \$10,710 civil penalty for his trading) and 90% of the income and interest generated while the \$22,576.62 was in the CRIS.

5. "Fabri Eligible Claimants" shall mean all persons and/or entities who sold MetroWest common stock on May 23, 2001. Those persons and/or entities who are Fabri Eligible Claimants, followed by the number of MetroWest shares sold on May 23, 2001 and the percentage each is to receive of the Fabri Disgorgement Fund, are as follows:

<u>Name and Address</u>	<u># of shares sold</u>	<u>Percentage</u>
Gholam Gamini P.O. Box 81386 Wellesley, MA 02481-2845	240	3.99%
David and Brenda Breen 14 Richmond Street West Roxbury, MA 02132-2522	600	9.97%
Neil Alan and Judith Eve Grand 45 West 60" Street, Apt. 5D New York, NY 10023	600	9.97%
Eleanor M. Anghinetti 17 Wheaton Avenue Rehobeth, MA 02769	1023	17.01%
Richard J. Szeto 82 Davis Avenue Brookline, MA 02146	150	2.49%

Edward A. and Irene G. Plumley 6 Amy Road Framingham, MA 01701	400	6.65%
Harold L. and Wanda M. Baker 594 Northwest Avenue Tallmadge, OH 44278-1202	3000	49.89%

The allocation of the Fabri Disgorgement Fund among the Fabri Eligible Claimants was done pro rata based upon the ratio of the number of MetroWest shares each Fabri Eligible Claimant sold on May 23, 2001 to the total number of MetroWest shares sold on May 23, 2001 by all of the Fabri Eligible Claimants.

6. The "Second Trader Disgorgement Fund" shall mean the \$1,252.03 Fabri paid the Clerk of this Court for deposit into the CRIS (which consists of \$1,130 in disgorgement for the Second Trader's trading and \$122.03 in prejudgment interest for the Second Trader's trading) and 90% of the income and interest generated while the \$1,252.03 was in the CRIS.'

7. The "Second Trader Eligible Claimant" shall mean Knight Securities L.P. ("Knight"), which sold 100 shares of MetroWest stock to the Second Trader on May 21, 2001, and sold 225 shares of MetroWest stock to the Second Trader on May 25, 2001. Knight, whose address is 525 Washington Boulevard in Jersey City, New Jersey 07310, is to receive the entire Second Trader Disgorgement Fund.

III. Pavment Of Eligible Claims

8. After the Court signs an order approving this Plan, the District Court Clerk's

' if the penalty associated with the Second Trader's trading were included in the Second Trader Disgorgement Fund, the total amount of funds to be returned to the "Second Trader Eligible Claimant" (see definition below) would exceed the amount of money in which the Second Trader Eligible Claimant lost as a result of its sales of MetroWest stock to the Second Trader. Accordingly, such funds associated with the penalty for the Second Trader's trading, in the amount of \$1,130, shall be distributed to the United States Treasury.

Office shall forthwith disburse the funds to the Fabri Eligible Claimants and the Second Trader Eligible Claimant in accordance with the provisions of this Plan.

9. If for any reason monies from the Fabri Distribution Fund or Second Trader Distribution Fund are unclaimed after 60 days, or if checks written by the District Court Clerk's Office are returned by the Fabri Eligible Claimants or the Second Trader Eligible Claimant, those funds shall be distributed to the United States Treasury.

10. All funds under this Plan that are to be distributed to the United States Treasury, including those specified in footnote one and paragraph nine of this Plan, shall be distributed to the United States Treasury via the Commission. The District Court Clerk's Office shall pay such funds to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312. The payment shall be accompanied by a letter identifying Fabri as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that such funds are being distributed pursuant to this Plan. The Clerk shall simultaneously transmit a photocopy of such payment and letter to the Commission's counsel in this action, to the attention of Bradford E. Ali, Senior Counsel, 73 Tremont Street, Suite 600, Boston, MA 02108.

IV. Plan Comment Period

11. Any person and/or entity wishing to comment on or object to this Plan must do so in writing by filing their comments with the Court within thirty (30) days from the date this Plan is filed with the Court, with a copy to be served, by first-class mail, upon the Commission to the attention of Bradford E. Ali, Senior Counsel, 73 Tremont Street, Suite 600, Boston, MA 02108, (617) 424-5900, ext. 118.

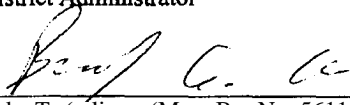
12. The Commission may respond to any comments so filed within thirty (30) days from the last date a comment may be filed, with copies of any such response to be filed with the Court and served by first-class mail upon counsel for Fabri, the District Court Clerk's Office, and all persons and/or entities who submitted comments to the Plan pursuant to Paragraph 11 above.

13. If the Court deems it necessary or appropriate, it will hold a hearing on the Commission's Plan.

Respectfully submitted,

Juan Marcel Marcelino
District Administrator

By:



Luke T. Cadigan (Mass Bar No. 561117)
Senior Trial Counsel

Bradford E. Ali (Mass. Bar No. 649541)
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(617) 424-5900 ext. 118 (All)
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Dated: August 22, 2003

CERTIFICATE OF SERVICE

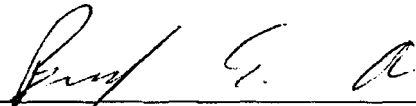
I hereby certify that on August 22, 2003, I caused copies of the foregoing document to be served on counsel for the defendants, all by first class mail at the addresses indicated below:

Counsel for Defendant Fitts

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