

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 85173 / February 22, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-16175

In the Matter of

**KENNETH C. MEISSNER, JAMES
DOUG SCOTT, and MARK S. “MIKE”
TOMICH,**

Respondents.

**ORDER DIRECTING SECOND
DISBURSEMENT OF FAIR FUND**

On September 25, 2017, the Commission approved the Plan of Distribution (“Plan”)¹ for the above-captioned matter, finding that the Criminal Action arose from substantially similar facts as those alleged in the Administrative Order, including a largely coincident victim pool and substantial overlap in the duration of the fraud. Pursuant to Rule 1102(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1102(a), the Plan provides for the transfer of all funds currently in the Fair Fund, and additional funds collected from the Respondents, less any taxes and expenses, to the Court Registry Investment System (“CRIS”) account established in the related criminal action, *United States v. Snisky*, No. 13-cr-00473-RM (D. Colo.) (“Criminal Action”), for distribution to harmed investors in accordance with the restitution process in the Criminal Action.

Also on September 25, 2017, the Commission authorized the transfer of \$101,267.37, less taxes, fees, and expenses, from the Fair Fund to the CRIS account established in the Criminal Action (“CRIS Account”) for distribution to harmed investors (“Initial Distribution”).² The Secretary has been granted authority to issue future orders to disburse additional collections from the Respondents, less any taxes, fees, and expenses, to the CRIS Account upon receipt of written certification from the Chief/Deputy Chief Litigation Counsel of the Division of Enforcement that additional funds have been collected from the Respondents.

The Secretary has now received written certification from the Chief/Deputy Chief Litigation Counsel of the Division of Enforcement that additional funds have been collected

¹ See Order Approving Plan of Distribution, Appointing a Distribution Plan Administrator, and Authorizing Transfer of Fair Fund Funds, Exchange Act Rel. No. 81696 (Sept. 25, 2017).

² *Id.*

from the Respondents, and, net of taxes, fees, and expenses, \$3,683.91 is available for disbursement.

Accordingly, it is hereby ORDERED, that Commission staff shall disburse \$3,683.91 to the CRIS Account as provided for in the Plan.

By the Commission.

Brent J. Fields
Secretary