

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 81513 / August 31, 2017**

**ADMINISTRATIVE PROCEEDING**  
**FILE No. 3-11538**

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<b>In the Matter of</b>	<b>ORDER AUTHORIZING THE</b>
	<b>TRANSFER TO THE U.S. TREASURY</b>
	<b>OF THE REMAINING FUNDS AND</b>
<b>J. MICHAEL SCARBOROUGH and</b>	<b>ANY FUNDS RETURNED TO THE</b>
<b>ROYAL ALLIANCE ASSOCIATES,</b>	<b>FAIR FUND IN THE FUTURE,</b>
<b>INC.,</b>	<b>DISCHARGING THE FUND</b>
	<b>ADMINISTRATOR, AND</b>
<b>Respondents.</b>	<b>TERMINATING THE FAIR FUND</b>
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On July 8, 2004, the United States Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative and Cease-And-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-And-Desist Order Pursuant to Section 8A of the Securities Act of 1933 and Section 15(b) of the Securities Exchange Act of 1934 (“Order”)<sup>1</sup> against Royal Alliance Associates, Inc. (“Royal Alliance”), and its Annapolis Maryland branch manager, J. Michael Scarborough (“Scarborough”) (collectively, “Respondents”). Among other things, the Commission found that from 1998 through early 2000 (the “Relevant Period”), Scarborough, through the registered representatives under his supervision, improperly sold brokerage customers Class B mutual fund shares in amounts that would have entitled them to breakpoint discounts had they purchased Class A shares of the same funds. The Commission ordered Scarborough to disgorge \$1.7 million and pay prejudgment interest of \$411,084.00 and a civil penalty of \$50,000.00; and ordered Royal Alliance to disgorge \$1 and pay a civil penalty of \$150,000. The Order further provided that the civil penalties may be distributed through a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002.

The Respondents satisfied their payment obligations and the disgorgement, prejudgment interest, and civil penalties were combined in an interest bearing account with the United States Department of the Treasury (the “Fair Fund”).

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<sup>1</sup> Securities Act Rel. No. 8438 (Jul. 8, 2004).

On February 6, 2009, the Commission issued a Notice of Proposed Plan of Distribution and Opportunity for Comment<sup>2</sup> pursuant to Rule 1103 of the Commission's Rules on Fair Fund and Disgorgement Plans ("Rules"), 17 C.F.R. § 201.1103. The Commission received no comments and on May 15, 2009, the Commission issued an Order Approving Plan of Distribution and appointed David S. Horowitz, a Commission employee, as the Fund Administrator.<sup>3</sup>

The Plan of Distribution ("Plan") provided for the distribution of the Fair Fund to Royal Alliance customers who, during the Relevant Period, qualified for a breakpoint at the \$100,000 level or above had they purchased Class A mutual fund shares, but who purchased Class B mutual fund shares at higher commissions ("Eligible Customers"). Under the Plan, each Eligible Customer would receive the excess commissions paid, plus a proportionate share of interest on those excess commissions. Pursuant to the Plan, any remaining funds in the Fair Fund are to be transferred to the United States Department of the Treasury ("U.S. Treasury") after the final accounting is approved by the Commission.

On June 2, 2010, the Commission authorized the disbursement of, approximately, \$ 2.3 million of the Fair Fund to 400 Eligible Customers in accordance with the Plan.<sup>4</sup> On May 16, 2012, the Commission authorized the disbursement of approximately \$ 6,900 to an additional Eligible Customer identified during the initial distribution.<sup>5</sup> Of the approximately \$2.3 million disbursed, checks aggregating to approximately \$190,000, were returned or otherwise remained uncashed. The Fund Administrator performed supplemental outreach efforts with respect to these uncashed payments, including address research, telephone calls, and correspondence. These efforts resulted in an additional \$102,000 in negotiated payments. Ultimately, over \$2.2 million, or 97% of the disbursed amount, was distributed to 386 Eligible Customers. After payment of taxes and administrative expenses, the Fair Fund currently holds \$70,626.52.

The Plan provides that the Fair Fund shall be eligible for termination after all of the following have occurred: (1) a final accounting, in a Commission standard accounting format provided by the staff, has been submitted by the Fund Administrator has been submitted and approved by the Commission, (2) all taxes, fees and expenses have been paid; and (3) any remaining funds or any residual amounts have been transferred to the U.S. Treasury. A final accounting, which was submitted to the Commission for approval as required by Rule 1105(f) of the Rules, 17 C.F.R. § 201.1105(f) and as set forth in the Plan, is now approved. The staff has verified that all taxes, fees, and expenses have been paid, and that the Commission is in possession of the remaining funds.

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<sup>2</sup> Exchange Act Rel. No. 59368 (Feb. 6, 2009).

<sup>3</sup> Exchange Act Rel. No. 59930 (May 15, 2009).

<sup>4</sup> Order Directing Disbursement of Fair Fund, Exchange Act Rel. No. 62210 (Jun. 2, 2010).

<sup>5</sup> Order Directing Disbursement of Fair Fund, Exchange Act Rel. No. 67002 (May 16, 2012).

Accordingly, it is ORDERED that:

- A. The remaining Fair Fund balance of \$70,626.52, and any funds returned to the Fair Fund in the future, shall be transferred to the U.S. Treasury;
- B. The Fund Administrator, David S. Horowitz, is discharged; and
- C. The Fair Fund is terminated.

By the Commission.

Brent J. Fields  
Secretary