

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81623 / September 14, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17794

In the Matter of

Kenneth Mack and Bryan McMillan

Respondent.

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SECOND EXTENSION ORDER

The Division of Enforcement (“Division”) has requested a second extension of time until March 15, 2018 to submit a Proposed Plan of Distribution under Rule 1101(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1101(a).

On January 18, 2017, the Commission issued an 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 (“Order”)¹ against Kenneth Mack (“Mack”) and Bryan McMillan (“McMillan”). The Order required Mack and McMillan to pay a \$40,000.00 and \$25,000.00 civil money penalty, respectively. The Order also created a fair fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, so the penalties could be distributed to harmed investors (the “Fair Fund”). The Order further provided that the Fair Fund could be added or combined with the fair fund established *In the Matter of Orthofix International, N.V.* (“Orthofix Matter”)² and/or 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 described in the Order or the Orthofix Matter, in order for the

¹ Exchange Act Rel. No. 79820 (Jan. 18, 2017).

² See 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, Securities Act Rel. No. 10281 (Jan. 18, 2017), Admin. Proc. File No. 3-17791.

combined fair funds to be distributed to harmed investors affected by the same violative conduct.

Mack and McMillan have paid \$40,000.00 and \$25,000.00, respectively, as ordered into the Fair Fund, and monies paid in the Orthofix Matter and two other related cases³ will be combined with the fair fund in the Orthofix Matter, for a total of \$8,370,000.00, for distribution to harmed investors.

On March 31, 2017, the Commission issued an order extending the Division's time until September 15, 2017 to submit a Proposed Plan of Distribution.⁴ In its second request for an extension of time, the Division states that it needs additional time to complete the appointment of the fund administrator in this matter and to allow for time to develop a proposed plan of distribution.

Accordingly, for good cause shown, IT IS HEREBY ORDERED that the Division's request for an extension of time until March 15, 2018 to submit a Proposed Plan of Distribution is granted.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields
Secretary

³ See *In the Matter of Jeffrey Hammel, CPA*, 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 and *In the Matter of Brian McCollum*, 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 Exchange Act Rel. No. 80354 (Mar. 31, 2017).