

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16941

In the Matter of

Scott A. Doak,

Respondent.

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PLAN OF DISTRIBUTION

I. OVERVIEW

1. The Division of Enforcement (“Division”) has prepared this plan of distribution (“Plan”) for the Securities and Exchange Commission (“Commission”) pursuant to Rule 1101 of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Commission’s Rules”), 17 C.F.R. § 201.1101. In accordance with Rule 1102(a) of the Commission’s Rules, 17 C.F.R. § 201.1102(a),¹ the disgorgement, prejudgment interest, and civil penalties paid by Scott A. Doak (“Doak”) will be transferred to the Court Registry Investment System account (the “CRIS Account”) established in the related criminal action, *United States v. Apostelos*, No. 3:15-cr-00148-TMR (S.D. Ohio) (the “Criminal Action”), for distribution to harmed investors in accordance with the restitution process in the Criminal Action. As explained below, the Division has concluded that distributing the funds collected in the Commission’s administrative proceeding through the Criminal Action’s restitution process is fair and reasonable because it would employ a more efficient use of resources to benefit investors harmed as a result of the

¹ Rule 1102(a) provides that “a plan for the administration of a Fair Fund . . . may provide for payment of funds into a court registry . . . in any case pending in federal or state court against a respondent or any other person based upon a complaint alleging violations arising from the same or substantially similar facts as those alleged in the Commission’s order instituting proceedings.”

Respondent's misconduct than would two separate distribution processes that would incur duplicative administrative and other expenses, resulting in a significant decrease in the amount of funds available for distribution.²

2. The Plan has been approved by the Commission.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Administrative Proceeding

3. On November 4, 2015, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order")³ against Doak.

4. In the Order, the Commission found that, from at least 2010 through 2014, William M. Apostelos ("Apostelos") and companies he controlled violated the registration and anti-fraud provisions of the federal securities laws by conducting fraudulent, unregistered offers of securities and misappropriating investor funds to pay earlier investors and promoters, finance other businesses he and his wife owned, and pay his personal expenses. Doak, an emergency medicine physician, became a client of Apostelos no later than 2007. According to the Order, in early 2013, Doak, Apostelos, and other individuals began operating OVO Wealth Management, LLC ("OVO"), a state-registered investment adviser. After approximately a year of operations,

² Consistent with the approach used by district courts when considering whether to approve a distribution plan, the Commission's objective is to distribute Fair Funds in a fair and reasonable manner, taking into account relevant facts and circumstances. *See Official Committee of Unsecured Creditors of WorldCom, Inc. v. SEC*, 467 F.3d 73, 82 (2d Cir. 2006), citing *SEC v. Wang*, 944 F.2d 80, 88 (2d Cir. 1991).

³ Securities Act Rel. No. 9976 (Nov. 4, 2015).

OVO was wound down, and Doak made oral and written misrepresentations and omissions to OVO clients to induce them to transfer their advisory accounts to investments controlled by Apostelos.

5. The Order found that Doak violated the registration provisions of the federal securities laws by offering and selling securities issued by entities controlled by Apostelos. Doak and OVO also violated the anti-fraud provisions of the federal securities laws by making misrepresentations and omissions while advising OVO clients to invest their advisory accounts in investments controlled by Apostelos. Through the same conduct, Doak aided and abetted and caused the violations of Apostelos and OVO.

6. The Commission ordered Respondent to pay disgorgement of \$86,833.34, prejudgment interest of \$2,874.44, and civil penalties of \$160,000.00, for a total of \$249,707.78, to the Commission, pending a decision whether the Commission would seek to distribute funds or transfer them to the U.S. Treasury.

7. On June 10, 2021, the Commission issued an order⁴ that created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so that the civil penalty paid, along with the disgorgement and prejudgment interest paid, can be distributed to harmed investors (the “Fair Fund”).

8. The Fair Fund includes the \$249,707.78 paid by Respondent. The assets of the Fair Fund are subject to the continuing jurisdiction and control of the Commission. The Fair Fund has been deposited in an interest-bearing account at the U.S. Department of Treasury’s Bureau of the Fiscal Service.

⁴ Order Establishing a Fair Fund, Exchange Act Rel. No. 92140 (June 10, 2021).

9. The Commission appointed Miller Kaplan Arase LLP, a certified public accounting firm, as Tax Administrator for the Fair Fund on July 17, 2017, to fulfill the tax-related obligations that the Fair Fund may incur as a Qualified Settlement Fund under the Department of the Treasury Regulation § 1.468B-1(c).⁵

B. The Criminal Action

10. On October 29, 2015, in *United States v. Apostelos*, No. 3:15-cr-00148-TMR (S.D. Ohio 2015) (the “Criminal Action”), the United States Attorney’s Office for the Southern District of Ohio filed a criminal indictment that charged Apostelos and his wife, Connie Apostelos, with one count of conspiracy to commit mail and wire fraud, eight counts of mail fraud, 13 counts of wire fraud, and one count of theft or embezzlement from an employee benefit plan. The criminal indictment charged that beginning in 2009, and continuing for at least five years, the couple orchestrated a Ponzi scheme in which hundreds of investors lost more than \$20 million collectively.

11. In February 2017, Apostelos pled guilty to conspiracy to commit mail and wire fraud and theft or embezzlement from an employee benefit plan. On June 30, 2017, the court sentenced Apostelos to 180 months of imprisonment and ordered him to pay restitution of \$32,767,578.72.⁶ The court also entered orders of forfeiture as to specific assets.⁷

⁵ Exchange Act Rel. No. 81154 (July 17, 2017).

⁶ Connie pled guilty to one count of mail fraud on April 4, 2017. On August 2, 2017, she was sentenced to 30 months of imprisonment. Connie was ordered to pay restitution of \$224,797.98 jointly and severally with the restitution ordered against her husband.

⁷ After the sentencing in the Criminal Action, the USAO engaged in collection efforts. Apostelos and his wife have been making small regular payments, and the USAO has liquidated two of their assets. Thus far, the USAO has collected more than \$1.2 million in the restitution fund. The USAO will continue to pursue collection efforts to increase the amount of funds available for victims.

III. JOINT DISTRIBUTION OF THE FAIR FUND AND CRIMINAL RESTITUTION FUND

12. The Commission staff will take necessary steps to transfer the Fair Fund, plus any accrued interest, less any taxes and fees, to the CRIS Account established in the Criminal Action for distribution through the restitution process in the Criminal Action.