

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DAVID R. GIBSON, et al.,

Defendants.

C.A. No. 1:15-cv-00363 (RGA)

STIPULATION AND PROPOSED ORDER REGARDING DISTRIBUTION OF FUNDS

WHEREAS, on May 6, 2015, Plaintiff Securities and Exchange Commission (“SEC” or “Commission”) filed its Complaint in this action against the four original Defendants in this case: Kevyn N. Rakowski (“Rakowski”), David R. Gibson (“Gibson”), Robert V. A. Harra (“Harra”), and William B. North (“North”) alleging, *inter alia*, that Defendants violated the federal securities laws by making, or aiding and abetting in making, material false statements in certain 2009 and 2010 SEC filings of Wilmington Trust Corporation (the “Bank”) concerning the Bank’s accruing loans 90 days or more “past due”;

WHEREAS, by separate consent Final Judgments entered on September 17, 2019, the SEC settled its claims in this case against Defendants Rakowski and Gibson (the “Rakowski Final Judgment” and the “Gibson Final Judgment”; collectively, the “Final Judgments”);

WHEREAS, the Rakowski Final Judgment Ordered Defendant Rakowski, *inter alia*, to pay within fourteen days a total of \$44,336 in disgorgement and prejudgment interest to the SEC, for further transfer to the U.S. Treasury;

WHEREAS, the Gibson Final Judgment Ordered Defendant Gibson, *inter alia*, to pay within fourteen days a total of \$70,367.72 in disgorgement and prejudgment interest to the SEC, for further transfer to the U.S. Treasury;

WHEREAS, Gibson and Rakowski timely satisfied their payment obligations under the Final Judgments, thus paying the SEC a total of \$114,703.72 (the “Settlement Funds”);

WHEREAS, pursuant to the Final Judgments, the SEC transferred the Settlement Funds to the U.S. Treasury;

WHEREAS, on September 11, 2014, the SEC instituted a settled administrative proceeding against the Bank concerning the same alleged false statements at issue in this case, *In the Matter of Wilmington Trust Corporation*, Admin., File No. 3-16098, 2014 WL 4467632 (SEC Order Instituting Proceedings, Sept. 11, 2014) (the “Administrative Proceeding”);

WHEREAS, in the Administrative Proceeding, the SEC has collected over \$60 million for distribution (the “Distribution Fund”) to affected investors who purchased or otherwise acquired shares of the Bank’s common stock for value during the time period of the alleged misconduct at issue in the Administrative Proceeding and in this case (“Eligible Investors”), *see In the Matter of Wilmington Trust Corporation*, Admin., File No. 3-16098, 2020 WL 5290842, at *1 (SEC Order Approving Plan of Distribution, Sept. 3, 2020);

WHEREAS, on September 3, 2020, the SEC approved a Plan of Distribution to distribute the Distribution Fund to Eligible Investors (“Distribution Plan”); *see id.* at *1-2;¹

¹ The approved plan is available at:
<https://www.sec.gov/litigation/admin/2020/34-89758-dp.pdf>.

WHEREAS, the SEC wishes to retrieve the Settlement Funds (\$114,703.72) from the U.S. Treasury so they can be added to the Distribution Fund for distribution in accordance with the Distribution Plan;

WHEREAS, the SEC further wishes to add to the Distribution Fund any future funds that the SEC might recover in this case from remaining Defendants Harra and North for distribution, if feasible, pursuant to the Distribution Plan;

IT IS HEREBY STIPULATED, by and between the SEC and the undersigned Defendants, as follows:

1. the SEC shall recover from the U.S. Treasury the \$114,703.72 paid by Rakowski and Gibson pursuant to the Final Judgments entered against them in this action (the Settlement Funds);
2. the SEC shall combine the amounts recovered pursuant to 1. above, and any future collections from Defendants North or Harra in this action, with the Distribution Fund for distribution, if feasible, in accordance with the Distribution Plan.

SECURITIES AND EXCHANGE COMMISSION

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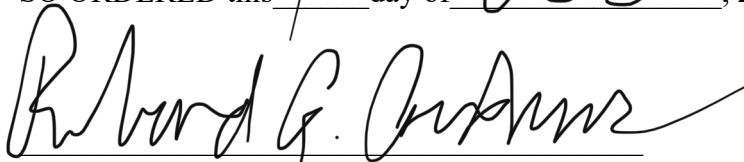
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SO ORDERED this 1 day of Oct, 2020


The Honorable Richard G. Andrews
United States District Judge