

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

2:15-cv-01974-GMN-BNW

ASCENERGY LLC and JOSEPH (a/k/a JOEY)  
GABALDON,

Defendants,

AND

PYCKL LLC and ALANAH  
ENERGY, LLC,

Relief Defendants.

**ORDER TO ESTABLISH A FAIR FUND, APPOINT A TAX ADMINISTRATOR, AND  
TO AUTHORIZE PAYMENT OF FUTURE TAX OBLIGATIONS, AND THE FEES  
AND EXPENSES OF THE TAX ADMINISTRATOR**

The Court, having reviewed Plaintiff Securities and Exchange Commission’s (“SEC” or “Commission”) Motion to Establish a Fair Fund, Appoint a Tax Administrator, and to Authorize Payment of Future Tax Obligations, and the Fees and Expenses of the Tax Administrator (the “Motion”), and for good cause shown,

**IT IS HEREBY ORDERED:**

1. The Motion is GRANTED.
2. A Fair Fund is established, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 [15U.S.C. § 7246(a)], as amended by the Dodd-Frank Act of 2010 [15 U.S.C. § 7246], for the \$760,000 and any future funds collected from Defendants and Relief Defendants (the “Fair Fund”).
3. Miller Kaplan Arase LLP is appointed as Tax Administrator (“Tax Administrator”) to execute all income tax reporting requirements, including the

1 preparation and filing of tax returns, for all funds under the Court’s jurisdiction in this  
2 case.

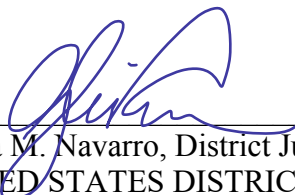
3 4. Miller Kaplan Arase LLP shall be designated the Tax Administrator of the Fair  
4 Fund, pursuant to section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. § 468B(g),  
5 and related regulations, and shall satisfy the administrative requirements imposed by those  
6 regulations, including but not limited to (a) obtaining a taxpayer identification number, (b)  
7 filing applicable federal, state, and local tax returns and paying taxes reported thereon out of  
8 the Fair Fund, and (c) satisfying any information, reporting, or withholding requirements  
9 imposed on distributions from the Fair Fund. Upon request, the Tax Administrator shall  
10 provide copies of any filings to the Commission’s counsel of record.

11 5. The Tax Administrator shall, at such times as the Tax Administrator deems  
12 necessary to fulfill the tax obligations of the Fair Fund, submit a request to the SEC’s counsel  
13 of record for payment from the Fair Fund of any tax obligations of the Fair Fund.

14 6. The Tax Administrator shall be entitled to charge reasonable fees and  
15 expenses for tax compliance services in accordance with its agreement with the  
16 Commission for Tax Years 2019-2021. The Tax Administrator shall, at such times as the  
17 Tax Administrator deems appropriate, submit a request to the SEC’s counsel of record for  
18 payment of fees and expenses from the Fair Fund.

19 7. The Commission staff is authorized to approve and arrange payment of all future  
20 tax obligations owed by the Fair Fund and Tax Administrator fees and expenses directly from  
21 the Fair Fund without further order of the Court.

22 Dated this 26 day of December, 2019

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26 Gloria M. Navarro, District Judge  
27 UNITED STATES DISTRICT COURT  
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