

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 18-cv-02381-CMA

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CLOVIS ONCOLOGY, INC.,
PATRICK J. MAHAFFY, and
ERLE T. MAST,

Defendants.

ORDER APPROVING DISTRIBUTION PLAN FOR THE FAIR FUND

This matter is before the Court on Plaintiff Securities and Exchange Commission's ("the Commission") Motion and Memorandum of Law for an Order Approving a Distribution Plan. (Doc. # 16.) Therein, the Commission moves the Court for an order approving its proposed plan to distribute more than \$20 million to compensate harmed Clovis Oncology, Inc. investors for their losses ("Distribution Plan"). A copy of the proposed Distribution Plan for the Fair Fund is attached to the Motion as Exhibit 1. (Doc. # 16-1.) No objection to the Motion has been filed.

Nearly every plan to distribute funds obtained in a Commission enforcement action requires choices to be made regarding the allocation of funds between and among potential claimants within the parameters of the amounts recovered. In recognition of the difficulty of this task, courts have historically given the Commission

significant discretion to design and set the parameters of a distribution plan. See, e.g., *SEC v. Great White Marine & Rec., Inc.*, 428 F.3d 553, 556 (5th Cir. 2005); *SEC v. Forex Asset Management LLC*, 242 F.3d 325, 331 (5th Cir. 2001); *SEC v. Fischbach Corp.*, 133 F.3d 170, 175 (2d Cir. 1997); *SEC v. Wang*, 944 F.2d 80, 83-84 (2d Cir. 1991); *SEC v. Levine*, 881 F.2d 1165, 1182 (2d Cir. 1989). The Court's review of a proposed Fair Fund distribution plan focuses on whether the plan is fair and reasonable. See *Official Committee of Unsecured Creditors of Worldcom, Inc. v. SEC*, 467 F.3d 73, 81 (2d Cir. 2006) (“[u]nless the consent decree specifically provides otherwise[,] once the district court satisfies itself that the distribution of proceeds in a proposed SEC disgorgement plan is fair and reasonable, its review is at an end”).

Upon consideration of the Motion and the proposed Distribution Plan, the Court finds that the Distribution Plan is fair and reasonable under the circumstances.

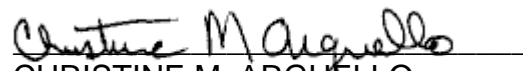
Therefore, it is

ORDERED that Plaintiff Securities and Exchange Commission's Motion for an Order Approving a Distribution Plan (Doc. # 16) is GRANTED. It is

FURTHER ORDERED that the Distribution Plan (Doc. # 16-1) is APPROVED in its entirety. The Distribution Plan shall govern the administration and distribution of the Fair Fund established by this Court's July 2, 2019 Order (Doc. # 13).

DATED: May 19, 2021

BY THE COURT:


CHRISTINE M. ARGUELLO
United States District Judge