

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Case No. 3:08-cv-01197-RCO
HOMELAND SAFETY INTERNATIONAL, INC.	§	
F/K/A SNIFFEX, INC.; MARK B. LINDBERG;	§	
PETAR D. MIHAYLOV; YURI P. MARKOV;	§	
PAUL B. JOHNSON; NICHOLAS V. KLAUSGAARD;	§	
AND ILONA V. KLAUSGAARD,	§	
	§	
Defendants.	§	
	§	
	§	
	§	
	§	

[PROPOSED] PLAN OF DISTRIBUTION

I. Introduction

1. On July 15, 2008, the Securities and Exchange Commission (“SEC” or “Commission”) filed a complaint against Homeland Safety International, Inc. f/k/a Sniffex, Inc. (“Homeland Safety” or “Sniffex”) and six other defendants (collectively, the “Defendants”). The SEC alleged that from approximately October 2004 through April 2006, Defendants Paul B. Johnson (“Johnson”), Petar D. Mihaylov (“Mihaylov”) and Yuri P. Markov (“Markov”) engaged in a fraudulent promotional campaign to inflate the price and trading volume of Homeland Safety’s, then known as Sniffex, stock. Johnson, Mihaylov, Markov, and Mark B. Lindberg (“Lindberg”) along with, Swiss residents, Nicholas and Ilona Klausgaard (the “Klausgaards”), carried out the \$32 million pump-and-dump fraud scheme upon unsuspecting investors by means of a sham Nevada-registered Rule 504 stock offering of Sniffex stock. During the relevant period, Mihaylov, Markov and Johnson, used more than 33 false and misleading press releases in a fraudulent promotional

campaign intended to inflate the share price and volume of Sniffex stock, while selling approximately 15 million shares of Sniffex restricted stock to unsuspecting investors. (*Dkt No. 1*).

2. On September 19, 2012, the Court entered Final Judgment against: Mihaylov and Markov, ordering them to pay \$1,550,000.00 in disgorgement to the SEC (\$1,150,000.00 jointly and severally, and Mihaylov and Markov \$200,000.00 each), (*Dkt No. 92*); Johnson, ordering him to pay disgorgement and prejudgment interest of \$903,091.00 (disgorgement of \$750,000.00 and prejudgment interest of \$153,091.00), with all but \$50,000.00 waived by the Court. (*Dkt No. 94*). On September 26, 2012, the Court entered Final Judgment against the Klausgaards, ordering them to pay a total of \$29,038,219.30 (disgorgement of \$12,248,250.00 and prejudgment interest of \$4,541,719.30, jointly and severally, and civil penalties of \$6,124,125.00 each) (*Dkt No. 98*). The Klausgaards defaulted on their judgments. On or about September 2012 and 2014, pursuant to their Final Judgments, Mihaylov and Markov, and Johnson, respectively, paid a total of \$1.6 million as ordered to the SEC. Each Final Judgment provides that the SEC may propose a plan to distribute the collected funds, subject to the Court's approval.

3. On January 10, 2020, the Court established a Fair Fund pursuant to Section 308(a) of SOX, so that the \$1.6 million paid along with accrued interest and earnings thereon (the "Fair Fund") can be distributed to investors who were harmed by the Defendants' fraudulent conduct, appointed Miller Kaplan Arase LLP ("Miller Kaplan") as the Tax Administrator (the "Tax Administrator"), and authorized the SEC to pay all tax obligations and administrative fees and expenses of the Tax Administrator without further Court Order (the "Appointment Order"). (*Dkt No. 102*).

4. The Fair Fund consists of the \$1.6 million of disgorgement and interest paid by Mihaylov, Markov, and Johnson and is currently on deposit in an interest-bearing account at the United States Treasury's Bureau of Fiscal Service. Any additional funds received pursuant to the Final Judgment will be added to the Fair Fund.

5. On January 14, 2020, the Court entered an Order that appointed JND Legal Administration as the Distribution Agent (“JND” or “Distribution Agent”) for the Fair Fund to assist in overseeing the administration of the Fair Fund in coordination with SEC staff, pursuant to the terms of a Distribution Plan to be approved by the Court (“JND Appointment Order”). (*Dkt No. 104*).

6. This Distribution Plan (the “Plan”) was developed jointly by the Distribution Agent and the SEC staff in accordance with practices and procedures customary in Fair Fund administrations. The Plan governs the administration and distribution of the Fair Fund, and sets forth the method and procedures for distributing the assets of the Fair Fund to investors harmed by the conduct alleged in the Complaint.

II. Definitions

7. As used herein, the following definitions shall apply:

- (a) **“Administrative Costs”** means any administrative costs and expenses including, without limitation, the fees and expenses of the Tax Administrator and the Distribution Agent, tax obligations, and investment costs. All Administrative Costs will be paid by the Fair Fund.
- (b) **“Claim Form”** shall mean the form designed by the Distribution Agent and reviewed by the SEC Staff, for the filing of claims in accordance with the Distribution Plan. The Claim Form will require, at a minimum, sufficient documentation of any Potentially Eligible Claimant’s purchases and sales of the common stock of Homeland Safety during the Relevant Period such that eligibility under the Distribution Plan can be determined, the tax identification number of the Potentially Eligible Claimant, related information from the Potentially Eligible Claimant as deemed necessary by the Distribution Agent in coordination with the Tax Administrator, and a

certification that the Potentially Eligible Claimant is not an Excluded Party. Claim Forms will be available on the website established for the Fair Fund. Potentially Eligible Claimants may also request a Claim Form from the Distribution Agent via mail, email, or by calling the toll-free helpline established for the Fair Fund.

- (c) **“Claims Packet”** shall mean the materials relevant to submitting a claim, provided to Potentially Eligible Claimants, including Potentially Eligible Claimants who request such materials through a website or otherwise prior to the Filing Deadline. The Claims Packet will include, at a minimum, a copy of the Distribution Plan Notice and a Claim Form (together with instructions for completion of the Claim Form).
- (d) **“Claims Determination Date”** shall mean the date on or before which the Distribution Agent is to reach its determination concerning the validity and amount of each Potentially Eligible Claimant’s claim. Except as otherwise provided herein, the Claims Determination Date shall be no later than ninety (90) days following the Filing Deadline.
- (e) **“Days”** shall mean calendar days, unless specified otherwise.
- (f) **“Determination Notice”** shall mean the notice sent by the Distribution Agent, within ninety (90) days of the Filing Deadline, to all Potentially Eligible Claimants who filed a Claim Form setting forth the Distribution Agent’s determination concerning the eligibility of such claim (eligible, partially or wholly deficient, or ineligible) and their Recognized Loss Amount. The Determination Notice will provide to each Potentially Eligible Claimant whose claim is deficient, in whole or in part, the reason(s) for the deficiency, notify the Potentially Eligible Claimant of the opportunity to cure

such deficiency, and provide instructions regarding further necessary actions.

In the event the claim is denied, the Determination Notice will state the reason(s) for such denial and notify the Potentially Eligible Claimant of their opportunity to request reconsideration of their claim.

- (g) **“Distribution Agent”** shall mean JND, the Distribution Agent appointed by the Court to administer the distribution of the Fair Fund.
- (h) **“Distribution Payment”** shall mean the payment to an Eligible Claimant in accordance with the terms of the Distribution Plan. The minimum Distribution Payment shall be \$10.00.
- (i) **“Distribution Plan Notice”** shall mean the notice given to Potentially Eligible Claimants of their potential right to participate in the distribution of the Fair Fund and their obligation to file a Claim Form in order to participate in the distribution of the Fair Fund. The Distribution Agent, in consultation with the SEC staff, shall design the Distribution Plan Notice, consistent with the provisions of this Distribution Plan, and such notice shall include, at a minimum, a statement that the Fair Fund relates to Homeland Safety common stock, the means of obtaining a Claims Packet, instructions for submitting a Claim Form, and the Filing Deadline. The Distribution Plan Notice shall advise Potentially Eligible Claimants that by participating in the distribution of the Fair Fund, they will not be releasing any rights or claims they may have against any party (other than with respect to the Distribution Agent), including, but not limited to, any party’s past and present directors, officers, promoters, advisers, agents, affiliates, nominees, assigns, creditors, or controlled entities.
- (j) **“Eligible Claimant”** shall mean a Potentially Eligible Claimant who is not

an Excluded Party and who is determined by the Distribution Agent to be eligible under the Distribution Plan for a Distribution Payment.

- (k) “**Eligible Security**” means Homeland Safety f/k/a Sniffex, Inc. common stock, purchased or otherwise acquired during the period May 17, 2005 through April 6, 2006, inclusive.
- (l) “**Excluded Parties**” shall mean:
- i. Defendants, their current or former employees, affiliates, or controlled entities who served in such capacity during the Relevant Period, and their assigns, creditors, heirs, distributees, spouses, parents, and children;
 - ii. Any defendant in any action brought by the SEC or any class action lawsuit related to the conduct described in the SEC’s complaint in this action or any related SEC action (or any of his or her affiliates, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities) unless and until such defendant is found not liable in all such civil suits prior to the Filing Deadline, and proof of the finding(s) is included in such defendant’s timely filed Claim Form;
 - iii. Any Person who, as of the Filing Deadline, has been the subject of criminal charges related to the violations alleged in the SEC’s complaint in this action or any related SEC action (or any of his or her affiliates, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities) unless and until such defendant is found not guilty in all such criminal actions prior to the Filing Deadline, and proof of the finding(s) is included in such defendant’s timely filed Claim Form;

- iv. Any Person who assigned their right to obtain a recovery in the SEC's action against Defendants; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance, devise or operation of law; or
 - v. The Distribution Agent, its employees, and those persons assisting the Distribution Agent in its role as the Distribution Agent.
- (m) **“Fair Fund”** shall mean the fund consisting of the \$1.6 million established by this Court pursuant to the provisions of Section 308(a) of SOX for the benefit of investors harmed by the Defendant's misconduct described in the Complaint and paid by Defendants Mihaylov, Markov and Johnson. Additional funds recovered as a result of collection efforts against the Defendants who defaulted on their judgments, together accrued interest and earnings will be added to the Fair Fund in accordance with this court's order on January 10, 2020.
- (n) **“Filing Deadline”** shall mean the date established in accordance with this Distribution Plan by which a Potentially Eligible Claimant's Proof of Claim Form must be postmarked or, if not sent by U.S. mail, received by the Distribution Agent to avoid the barring of any right of the Potentially Eligible Claimant to participate in any distribution from the Fair Fund. Subject to certain extensions provided for in this Distribution Plan, the Filing Deadline shall be ninety (90) days after the Distribution Agent's initial mailing of the Distribution Plan Notice. Proof of Claim Forms postmarked or, if not sent by U.S. mail, received after the Filing Deadline will not be reviewed and evaluated, unless SEC staff so directs the Distribution Agent.

- (o) **“Final Determination Notice”** means the Distribution Agent’s written reply to each Potentially Eligible Claimant who timely responded to the Determination Notice in an effort to cure a deficiency or seek reconsideration of a denied claim. The Final Determination Notice will constitute the Distribution Agent’s final ruling regarding the status of the claim.
- (p) **“Minimum Distribution Amount”** shall mean the specified dollar amount that a Distribution Payment must equal or exceed in order for a distribution to be made to an Eligible Claimant. No Eligible Claimant shall receive a distribution unless his, her, or its Distribution Payment is equal to or greater than \$10.00.
- (q) **“Net Fair Fund”** shall mean the Fair Fund, plus accumulated interest and earnings thereon, less any Administrative Costs.
- (r) **“Market Loss/Gain”** shall mean the market loss or gain that occurs from the trading of Homeland Safety common stock during the Relevant Period.
- (s) **“Payee List”** shall mean a list of Eligible Claimants and the amount of each Eligible Claimant’s Recognized Loss and Distribution Payment.
- (t) **“Person”** shall mean a natural individual as well as a legal entity, such as a corporation, partnership, limited liability company, or governmental entity. All nouns, pronouns, and any variations thereof in this Distribution Plan shall be deemed to refer to the masculine, feminine, neuter, singular, or plural as the context may require.
- (u) **“Plan of Allocation”** shall mean the methodology used to calculate a Recognized Loss for a Potentially Eligible Claimant as set forth in Attachment A hereto.

- (v) **“Potentially Eligible Claimant”** shall mean those Persons identified by the Distribution Agent as having possible claims to recover from the Net Fair Fund under this Distribution Plan, or Persons asserting that they have possible claims to recover from the Net Fair Fund under this Distribution Plan.
- (w) **“Prior Recovery”** is the amount of any compensation for the loss that resulted from the conduct described in the complaint in this case that was received from another source to the extent known by the Distribution Agent. An Eligible Claimant’s Distribution Payment will be no greater than the amount that when combined with the Prior Recovery equals the Eligible Claimant’s Recognized Loss.
- (x) **“Pro Rata Share”** is a computation intended to measure Eligible Claimants’ claims against one another. Should the total Recognized Loss of all Eligible Claimants exceed the Net Fair Fund, then each Eligible Claimant will receive a Distribution Payment that their Recognized Loss bears in proportion to the total Recognized Loss of all Eligible Claimants.
- (y) **“Recognized Loss”** shall mean the amount of loss an Eligible Claimant incurred through their investment in the Homeland Safety common stock during the Relevant Period calculated in accordance with the Plan of Allocation, as detailed in Attachment A hereto.
- (z) **“Relevant Period”** shall mean the period between May 17, 2005 and April 6, 2006, inclusive of both dates. (Dkt No. 1 ¶ 33).
- (aa) **“Summary Notice”** shall mean the notice published on the internet and/or in print media. Such notice (the text of which shall be approved by the SEC staff) shall include, at a minimum, a statement that the Fair Fund was

established for the benefit of investors who traded in the Eligible Security during the Relevant Period, the means of obtaining and submitting a Claim Form, and the Filing Deadline.

- (bb) **“Tax Administrator”** shall mean Miller Kaplan Arase LLP, the firm appointed by the Court on January 10, 2020 as the Tax Administrator in this action.
- (cc) **“Third Party Filer”** means a third-party, including without limitation a nominee, custodian, or an intermediary holding in street name, who is authorized to and submits a claim(s) on behalf of one or more Potentially Eligible Claimants. Third Party Filer does not include assignees or purchasers of claims, which are excluded from receiving distribution payments. *See definition of Excluded Parties in Paragraph 12(d) above.*

III. The Distribution Agent

8. The Distribution Agent will be responsible for administering the Net Fair Fund in accordance with the Distribution Plan and the JND Appointment Order. This will include, among other things, taking reasonable steps to identify and contact Potentially Eligible Claimants; obtaining accurate mailing information for Potentially Eligible Claimants; establishing a website and staffing a call center to address inquiries during the claims process; developing a claims database; preparing accountings; cooperating with the Tax Administrator to satisfy any tax liabilities and to ensure compliance with income tax reporting requirements; advising Potentially Eligible Claimants of deficiencies in claims and providing an opportunity to cure any documentary defects; taking antifraud measures, such as identifying false, ineligible and overstated claims; making determinations under the criteria established herein as to Potentially Eligible Claimants eligibility; advising Potentially Eligible Claimants of final claim determinations; and disbursing the Fair Fund in accordance with this Distribution Plan

9. To carry out the purposes of this Distribution Plan, the Distribution Agent is authorized to make and implement immaterial changes to the Distribution Plan upon consultation and agreement with SEC staff. If a change is deemed to be material by SEC staff, Court approval is required prior to implementation, by amending the Distribution Plan.

10. The Distribution Agent may extend procedural deadlines contained in the Distribution Plan for good cause shown, if agreed upon by the SEC staff.

11. Payment of reasonable fees and expenses incurred by the Distribution Agent will be requested in accordance with the JND Appointment Order and paid from the Fair Fund.

12. The Distribution Agent may be removed at any time by the Court, and replaced with a successor. In the event the Distribution Agent decides to resign, it will first give written notice to the Commission staff and the Court of such intention, and such resignation will not be effective until the Court has appointed a successor. The Distribution Agent will then follow such instructions as such successor or the Court provides in turning over management of the Fair Fund.

IV. Tax Administration

13. The Fair Fund is a Qualified Settlement Fund (“QSF”) within the meaning of the regulations issued under Section 468B(g) of the Internal Revenue Code of 1986, as amended. The Tax Administrator is the administrator of such QSF, for purposes of Treas. Reg. § 1.468B-2(k)(3)(I), and shall satisfy the tax-related administrative requirements imposed by Treas. Reg. § 1.468B-1 to §1.468B-5, as set forth in the Appointment Order. The Tax Administrator’s responsibilities include, but are not limited to:

- a. Obtaining a taxpayer identification number;
- b. Timely requests for funds necessary for the timely payment of all applicable taxes, the timely payment of taxes for which the Tax Administrator has received funds, and the filing of applicable tax returns; and

- c. Fulfilling any information reporting or withholding requirements required for distributions from the Net Fair Fund, including but not limited to the Foreign Account Tax Compliance Act.

14. The Distribution Agent shall cooperate with the Tax Administrator in providing any information necessary to ensure income tax compliance for the Fair Fund.

15. Payment of all tax obligations and tax related costs and expenses will be requested in accordance with the Appointment Order and paid from the Fair Fund.

V. The Notice Process

16. Within thirty (30) days of approval of the Plan, the Distribution Agent will send by mail, email, or other means, a Claims Packet to the Distribution Agent's list of banks, brokers, and other nominees, as well as any other institutions identified during the outreach process that may have records of purchasers or sellers of the Eligible Security during the Relevant Period ("Nominees or Custodians"). The Distribution Agent will request that these entities, to the extent that they were record holders for beneficial owners of the Eligible Security:

- a. within fourteen (14) days of the Nominees' or Custodians' receipt of the Claims Packet, notify and send the Claims Packet to the respective beneficial owners, and, as requested, provide to the beneficial owners a Notice Packet, so that beneficial owners may timely file claims. The burden will be on the Nominees or Custodians to ensure the Claim Packets, and other relevant materials are properly disseminated to the beneficial owners; and/or
- b. provide to the Distribution Agent, within fourteen (14) days of receipt of the Claims Packet, a list of last known names and addresses for all beneficial owners for whom the Nominees or Custodians purchased, as the record holders, the Eligible Security during the Relevant Period so that the Distribution Agent can communicate with the beneficial owners directly.

17. At the discretion of the Distribution Agent, a reasonable number of additional copies of the Claims Packet shall be made available to any Nominee or Custodian requesting same for the purpose of distribution to beneficial owners.

18. Requests to the Distribution Agent for additional copies of the Claims Packet in excess of five hundred (500) are subject to approval by the Distribution Agent in consultation with the Commission staff.

19. Documented reasonable out-of-pocket expenses incurred by the Nominee or Custodian, which would not have been incurred but for compliance with paragraph 37(a) above, shall be reimbursed by the Fair Fund. The amount of such expenses allowed will be at the discretion of the Distribution Agent in consultation with the Commission staff. Unless otherwise determined by the Distribution Agent in consultation with the Commission staff, out-of-pocket expenses based on the following rates will be considered reasonable:

- a. a maximum of \$0.08 per Claim Packet plus postage at the pre-sort postage rate per Claim Packet actually mailed;
- b. \$0.05 per email of Publication or Notice and Claim Form link disseminated;
or
- c. \$0.20 per name, address, and email address provided to the Distribution Agent, up to a maximum amount of \$1,500.00.

20. Within thirty (30) days following the entry by the Court of its order approving this Distribution Plan, the Distribution Agent shall:

- a. Design a Claims Packet, which shall be submitted to SEC staff for review and approval;
- b. Create a mailing and claims database, consisting of identifying information of the Potentially Eligible Claimants;

- c. Before commencing any mailing, run a National Change of Address search to retrieve updated addresses for all Potentially Eligible Claimants recorded in the database, thereby ensuring updated mailing information for Potentially Eligible Claimants;
- d. Mail, by United States First Class Mail, a Claims Packet to each Potentially Eligible Claimant and Nominee Holder known to the Distribution Agent;
- e. Establish and maintain a website, www.homelandsafetyfairfund.com, devoted solely to the administration of the Fair Fund from which each Potentially Eligible Claimant may request a Claims Packet by mail or download a copy of the Claims Packet and other relevant documents online;
- f. Provide a copy of the Distribution Plan and Claims Packet to the SEC staff for posting to its website and request that the SEC staff establish a link to the Fair Fund's website;
- g. Establish and maintain a traditional mailing address and an email address, which will be listed on all correspondence from the Distribution Agent, as well as, on the Fair Fund's website;
- h. Establish a toll-free telephone number 1-833-636-2110 by which Potentially Eligible Claimants can obtain information about the Fair Fund; and
- i. Publish the Summary Notice approved by the Commission staff in print or internet media acceptable to the SEC staff once a week for three consecutive weeks starting within five (5) days of the initial mailing of Claims Packets to Potentially Eligible Claimants.

21. The Commission staff retains the right to review and approve any material posted on the Fair Fund's website, any material mailed, and any scripts used in connection with communicating with Potentially Eligible Claimants.

22. On an ongoing basis, the Distribution Agent shall supply a Claims Packet to any Potentially Eligible Claimant who requests one via mail, phone, or e-mail prior to the Filing Deadline.

23. The Distribution Agent shall attempt to locate any Potentially Eligible Claimant whose Claims Packet has been returned by the United States Postal Service (“USPS”) as undeliverable. The Distribution Agent shall immediately mail again any returned undelivered mail for which the USPS has provided a forwarding address.

24. The Distribution Agent may engage a third-party search firm to conduct more rigorous searches for addresses of Potentially Eligible Claimants. Additional efforts to identify new addresses for returned undelivered mail will be conducted as necessary and economically reasonable, after consultation with the SEC staff. The Distribution Agent will make available, upon request by the SEC staff, a list of all Potentially Eligible Claimants whose Claims Packets have been returned as “undeliverable” due to incorrect addresses and for which the Distribution Agent has been unable to locate a current address.

VI. The Claims Process

25. In all materials that refer to the Filing Deadline, the deadline will be clearly identified with the date, which is ninety (90) days from the initial mailing of Claims Packet.

26. To avoid being barred from asserting a claim, on or before the Filing Deadline, each Potentially Eligible Claimant must submit to the Distribution Agent a properly completed Claim Form reflecting such claim, which must be accompanied by such documentary evidence to substantiate the claim, including all documentary evidence that the Distribution Agent deems necessary or appropriate, including but not limited to, available account statements and trade confirmations.

27. The burden to prove timely receipt of a claim by the Distribution Agent will be upon the Potentially Eligible Claimant; therefore Potentially Eligible Claimants will be instructed to

submit their Claim Form in a manner that will enable them to prove timely receipt of the Proof of Claim Form by the Distribution Agent. A Claim Form that is postmarked, or otherwise received by the Distribution Agent, after the Filing Deadline will not be accepted unless the deadline is extended by the Distribution Agent for good cause shown, after consultation with the SEC staff.

28. All claims and supporting documentation must be verified by a signed Claim Form executed by the Potentially Eligible Claimant under the penalty of perjury under the laws of the United States. The declaration must be executed by the Potentially Eligible Claimant, unless the Distribution Agent accepts such declaration from someone authorized to act on the Potentially Eligible Claimant's behalf, whose authority is supported by such documentary evidence as the Distribution Agent deems necessary.

29. Each Potentially Eligible Claimant will have the burden of proof to establish the validity and amount of their claim, and qualification as an Eligible Claimant, including the burden to certify that they are not an Excluded Party. The Distribution Agent will have the right to request, and the Potentially Eligible Claimant will have the burden to promptly provide to the Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent.

30. The recipient of the Eligible Security as a gift, transfer, inheritance, devise or operation of law shall be eligible to file a Claim Form and participate in the distribution of the Net Fair Fund only to the extent the particular donor or decedent as the actual purchaser of Eligible Securities would have been eligible. The recipient of the Eligible Security during the Relevant Period by gift, transfer, inheritance, devise, or operation of law shall not otherwise be eligible to file a Claim Form with respect to such securities, and shall not be deemed the assignee of any claim relating to the purchase of such securities unless specifically so provided in the instrument of gift, assignment, or inheritance. However, the donee and the donor may not both make a claim with regard to the same transactions in the Eligible Security. If both the donor and the donee make such a claim, only the claim filed by the donee will be honored.

31. Claims on behalf of a retirement plan covered by Section 3(3) of ERISA, 29 U.S.C. § 1002(3), which do not include individual retirement accounts, and such plan's participants, are properly made by the administrator, custodian or fiduciary of the plan and not by the plan's participants. The Distribution Agent will issue any payments on such claims directly to the administrator, custodian, or fiduciary of the retirement plan. The administrator, custodian, or fiduciary of the retirement plan will distribute any payments received in a manner consistent with its fiduciary duties and the governing account or plan provisions. With respect to any retirement plan that has been closed prior to the Distribution Agent's identification of Potentially Eligible Claimants, the Distribution Agent will endeavor to distribute funds directly to the beneficial accountholders of such retirement plans if the information required for such a distribution is known to or provided to the Distribution Agent prior to the Filing Deadline.

32. When submitting claims to the Fair Fund on behalf of its clients, all Third-Party Filers must use the electronic filing template provided by the Distribution Agent in this matter. Files that do not comply with the template and format provided by the Distribution Agent may be rejected. Third-Party Filers must also submit a signed master proof of claim and release, as well as proof of authority to file on behalf of the claimant(s), at the time the electronic file of transactions is submitted. Failure to do so may result in rejection of the claim(s).

33. Each Third-Party Filer must establish the validity and amount of each claim in its submission. Like all other claimants to the Fair Fund, Third-Party Filers must submit such supporting documentary evidence of purchases, dispositions, and holdings of the Eligible Security as the Distribution Agent deems necessary or appropriate to substantiate each individual claim. Without limitation, this includes the complete name of the claimant (beneficial account owner) and its Taxpayer Identification Number (for individuals) or Employer Identification Number (for companies), sufficient contact information to confirm the identity of the beneficial owner, and documentation from the original bank, broker or other institution of purchases and dispositions of

the Eligible Security(account statements, confirmations and other documentation of purchases and dispositions) during the Relevant Period on their trade dates, as well as holdings of the Eligible Security on pertinent dates. Documentation generated by the Third-Party Filer as well as affidavits in lieu of supporting documentation will not be accepted, unless for good cause the Distribution Agent determines it acceptable. The Distribution Agent will have the right to request, and the Third-Party Filer will have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed necessary by the Distribution Agent to substantiate the claim(s) contained in the submission. Documentation from a Third-Party Filer that is not acceptable to the Distribution Agent will result in rejection of the affected claim(s). The determination of the Distribution Agent to reject a claim for insufficient documentation is final and within the discretion of the Distribution Agent and may not be appealed.

34. Distribution payments must be made by check or electronic payment payable to the beneficial account owner. The Third-Party Filer shall not be the payee of any distribution payment check or electronic payment. Any other payment arrangement must be discussed with the Distribution Agent and must be authorized by the Eligible Claimant (beneficial account owner). Compensation to the Third-Party Filer for its services may not be paid or deducted from the Distribution Payment.

35. If, after discussion with the Distribution Agent in consultation with the SEC, and authorization by the Potential Claimant(s), a Distribution Payment is to be made to a Third-Party Filer to distribute to the Potential Claimant(s), the Third-Party Filer will be required to complete a certification, which will require them, at a minimum, to attest that any distribution to the custodian, trustee, or investment professional representing multiple potentially eligible beneficial owners, will be allocated for the benefit of current or former pooled investors and not for the benefit of management. The certification form will be available on the Fair Fund website and upon request from the Distribution Agent. All such Third-Party Filers must have an auditable mechanism

available to the Distribution Agent and the SEC staff to confirm that each Potential Claimant, if determined an Eligible Claimant, received the Distribution Payment directed to them.

VII. Review of Claims and Notification

36. The Distribution Agent shall review each Claim Form received to determine the eligibility of each Potentially Eligible Claimant to participate in the distribution of the Fair Fund by reviewing the claim data supporting documentation (or lack thereof), verifying the claim, and calculating each Potentially Eligible Claimant's Recognized Loss pursuant to the Plan of Allocation. Each Potentially Eligible Claimant will have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent.

37. The Distribution Agent will provide a Determination Notice within ninety (90) days of the Filing Deadline to each Potentially Eligible Claimant who has filed a Claim Form with the Distribution Agent, setting forth the Distribution Agent's conclusions concerning such claim. The Determination Notice will provide to each Potentially Eligible Claimant whose claim is deficient, in whole or in part, the reason(s) for the deficiency (*e.g.*, failure to provide required information or documentation). The Determination Notice will also notify the Potentially Eligible Claimant of the opportunity to cure such deficiency, and provide instructions regarding what is required to do so.

38. Any Potentially Eligible Claimant with a deficient claim will have thirty (30) days from the date of the Determination Notice to cure any deficiencies identified in the Determination Notice.

39. In the event the claim is denied, in whole or in part, the Determination Notice will state the reason for such denial. Any Potentially Eligible Claimant seeking reconsideration of a denied claim must advise the Distribution Agent in writing within thirty (30) days of the date of the Determination Notice. All requests for reconsideration must include the necessary documentation to substantiate the basis upon which the Potentially Eligible Claimant is requesting reconsideration of their claim.

40. The Distribution Agent will send, as appropriate, a Final Determination Notice to all Potentially Eligible Claimants who responded to the Determination Notice in an effort to cure a deficiency or to seek reconsideration of a rejected claim. The Distribution Agent will send such Final Determination Notices no later than sixty (60) days following the mailing of the Determination Notice, or such longer time as the Distribution Agent determines is necessary for a proper determination concerning the claim.

41. The Distribution Agent may consider disputes of any nature presented by Potentially Eligible Claimants, and will consult the SEC staff as appropriate. The Distribution Agent will have the authority to waive technical claim deficiencies and approve claims on a case-by-case basis, or in groups of claims. All determinations made by the Distribution Agent in accordance with the Plan in any dispute, request for reconsideration, or in attempt to cure a deficient claim will be final and not subject to appeal.

42. All Potentially Eligible Claimants have the burden of promptly notifying the Distribution Agent of any changes to his, her or its name or mailing address or other contact information.

VIII. Distribution of the Net Fair Fund

43. The Distribution Agent shall distribute the Net Fair Fund to all Eligible Claimants only after all timely submitted Claim Forms have been processed and all Potentially Eligible Claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to cure, pursuant to the procedures set forth above.

44. The Distribution Agent, in consultation with the Tax Administrator and the SEC staff, shall determine the amount of the Net Fair Fund by retaining a prudent reserve to pay all Administrative Costs, as well as a reasonable contingency for potential unforeseen issues. After all distributions and payment of all Administrative Costs, any remaining amounts in the reserve will become part of the residual described below. For purposes of calculating the residual of the Net

Fair Fund, any disgorgement amount(s) ordered by the Court shall be deemed to have been paid out first to Eligible Claimants, with any prejudgment interest and/or penalty amount(s) to be paid out to Eligible Claimants only after the total disgorgement has been paid out in full.

45. Within sixty (60) days following the date of the Final Determination Notices, the Distribution Agent shall prepare a final Payee List that includes the names of Eligible Claimants, the Recognized Loss of each Eligible Claimant, and the Distribution Payment amount. The Distribution Agent shall provide the final Payee List to the Commission staff for review. Upon review the Commission staff shall petition the Court to transfer funds held at the CRIS to the Distribution Agent for distribution pursuant to the Distribution Plan. In recommending a distributable amount to the Court, the Distribution Agent will retain a prudent reserve to pay any taxes, fees, and expenses payable in connection with the Fair Fund, as well as a reasonable contingency for potential unforeseen issues. The final payee list shall, upon request, be made available to the Court under seal.

46. Prior to the disbursement of the Net Fair Fund, the Distribution Agent will establish an Escrow account (“Escrow Account”) with a United States commercial bank that is not unacceptable to the Commission staff (the “Bank”), pursuant to a form provided by the Commission staff (the “Escrow Agreement”).

47. The Distribution Agent, pursuant to the Escrow Agreement, shall establish with the Bank a deposit account (e.g. controlled distribution account, managed distribution account, linked checking and investment account) (the “Deposit Account”), insured by the FDIC up to the guaranteed FDIC pass through limit. The Deposit Account shall be linked with the Escrow Account and shall be named, and records maintained, in accordance with the Escrow Agreement.

48. Upon the Commission staff’s receipt, review, and acceptance of the Payee List and the “Declaration” from the Distribution Agent pursuant to paragraph 51, the Commission staff will seek an order from the Court (the “Order to Disburse”) to disburse funds to the Bank in accordance

with the Payee List (the “Escrow Property”) and pursuant to the Escrow Agreement, for distribution by the Distribution Agent in accordance with the Plan. All disbursements will be made pursuant to a Court Order. Upon issuance of an Order to Disburse, the Commission staff will direct the transfer of funds to the Bank.

49. During the term of the Escrow Agreement, the Escrow Property shall be fully invested and reinvested by the Bank in short-term U.S. Treasury securities backed by the full faith and credit of the United States Government or an agency thereof, of a type and term necessary to meet the cash liquidity requirements for payments to Eligible Claimants and tax obligations, including money market mutual funds registered under the Investment Company Act of 1940 that invest 100% of their assets in direct obligations of the United States Government.

50. All interest, dividends, and/or income earned by the Escrow Property will accrue for the benefit of the Escrow Property. All Administrative Costs associated with the Escrow and Deposit Accounts will be the responsibility of the Distribution Agent, who may be reimbursed for said costs as provided in this Plan. No such Administrative Costs may be paid to the Bank, its agents, and/or its affiliates from the Escrow Property.

51. Within twenty (20) business days of the Bank’s transfer of the Escrow Property into the Escrow Account, the Distribution Agent shall use its best efforts to commence mailing Distribution Payment checks or effect electronic payments.

52. In consultation with Commission staff, the Distribution Agent shall work with the Bank on an ongoing basis to deposit or invest funds in the Escrow and Deposit Accounts so as to result in the maximum return, taking into account the safety of such deposits or investments and tax implications; and to determine an allocation of funds between the Escrow and the Deposit Accounts. The Distribution Agent shall provide duplicate bank and/or investment statements on any accounts established by the Distribution Agent to the Tax Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-cycle statements, as necessary.

53. The Distribution Agent will also provide a “Declaration” to the Commission staff, representing that the final Payee List: (a) was compiled in accordance with the Distribution Plan; (b) is accurate as to Eligible Claimants’ names, addresses, and their Recognized Losses; and (c) provides all information necessary to make Distribution Payments to each Eligible Claimant.

54. Checks will be issued by the Distribution Agent from the Deposit Account set up at the Bank. Checks will be issued in U.S. dollars and shall bear a stale date of ninety (90) days from the date of issuance. Accordingly, checks that are not negotiated within this period shall be voided and the issuing financial institution shall be instructed to stop payment on those checks, except as provided in paragraphs 63 and 64 below. Where an Eligible Claimant’s check has not been negotiated within the ninety (90) day period and has been voided by the Distribution Agent, that Eligible Claimant’s claim shall be extinguished upon the occurrence of the stale date. All such funds will remain in the Fair Fund.

55. Upon receipt and review of the validated Payee List and Reasonable Assurances Letter, the SEC staff will petition the Court for authority to disburse the entire balance of the Net Fair Fund from the SEC to the Distribution Agent for distribution to Eligible Claimants pursuant to the Distribution Plan. In recommending a distributable amount to the Court, the Distribution Agent will retain a prudent reserve to pay any taxes, fees, and expenses payable in connection with the Fair Fund, as well as, a reasonable contingency for potential unforeseen issues. In conjunction with the motion seeking transfer of the Net Fair Fund to the Distribution Agent for distribution, the Payee List shall, upon request, be made available to the Court under seal.

56. Following the Court’s approval of the SEC’s motion for the authority to distribute the Net Fair Fund to Eligible Claimants as provided for in this Plan, the Distribution Agent shall use its best efforts to commence mailing Distribution Payment checks or effect wire transfers within fifteen (15) business days of the transfer of the funds into the Escrow Account. All efforts will be coordinated to limit the time between the Escrow Account’s receipt of the funds and the issuance of

Distribution Payments.

57. Checks will be issued by the Distribution Agent from the Deposit Account established at the Bank. Checks will be issued in U.S. dollars and shall bear a stale date of ninety (90) days from the date of issuance. Accordingly, checks that are not negotiated within this period shall be voided and the issuing financial institution shall be instructed to stop payment on those checks, except as provided in paragraphs 64 to 67 below. Where an Eligible Claimant's check has not been negotiated within the ninety (90) day period and has been voided by the Distribution Agent, that Eligible Claimant's claim shall be extinguished upon the occurrence of the stale date. All such funds will remain in the Net Fair Fund.

58. All Distribution Payments shall be preceded or accompanied by a communication that includes, as appropriate:

- a. A statement characterizing the distribution;
- b. A statement that the tax treatment of the distribution is the responsibility of each recipient and that the recipient should consult his or her tax advisor for advice regarding the tax treatment of the distribution;
- c. A statement that checks will be void after ninety (90) days after the date of issuance; and,
- d. The name of a person or entity to contact, if the Eligible Claimant has any questions regarding the distribution.

59. All Distribution Payments, on their face or the accompanying mailing, shall clearly indicate that the money is being distributed from a Fair Fund established to compensate investors for harm suffered as a result of their investment in Homeland Safety common stock. Any such communication shall be submitted to the SEC staff and the Tax Administrator for review and approval.

60. Wire transfer may be utilized at the discretion of the Distribution Agent to transfer approved Distribution Payments to Eligible Claimants. Wire transfers will be initiated by the Distribution Agent using a two-party check and balance system, whereby completion of a wire transfer will require an authorization by two members of the Distribution Agent's senior staff. Wire transfers will be executed in U.S. dollars, unless otherwise agreed to with the Commission staff.

61. If payment instructions have been provided and verified by the Distribution Agent, Distribution Payments to Eligible Investors will be made by wire transfer or by any method otherwise approved by the Distribution Agent. For any wire or other electronic transfer, the exact amount necessary to make a payment shall be transferred from the Escrow Account directly to the payee account in accordance with written instruction provided to the Escrow Bank by the Distribution Agent. In the event that a wire or electronic transfer to an Eligible Investor is unsuccessful, the Eligible Investor has not provided sufficient information to the Distribution Agent, or the Distribution Agent has not been able to verify the provided wire transfer or electronic payment information to its satisfaction, the Distribution Payment will be made by check sent by overnight mail to the Eligible Investor. In consultation with the SEC staff and subject to the controls set forth herein, the Distribution Agent shall have the discretion to make a payment by electronic transfer other than wire transfer if appropriate under the circumstances. All Distribution Payments will be made in U.S. currency.

62. The Distribution Agent shall use all reasonable commercially available resources to locate all Eligible Claimants whose checks are returned to the Distribution Agent as undeliverable. However, the Eligible Claimant has the burden of providing the Distribution Agent with any changes to his or her mailing address.

63. Under no circumstances shall the Distribution Agent, its employees or its agents incur any liability to any Person in connection with a distribution made in accordance with the list of all Eligible Claimants and their Recognized Loss as approved by the Court, and all Persons are

enjoined from taking any action in contravention of this provision. Upon receipt and acceptance by an Eligible Claimant of a distribution from the Fair Fund, such Eligible Claimant shall be deemed to have released all claims that such Eligible Claimant may have against the Distribution Agent, its employees, agents, and attorneys in connection with the Distribution Plan and the administration of the Fair Fund, and shall be deemed enjoined from prosecuting or asserting any such claims

IX. Post-Distribution

64. The Distribution Agent shall reissue checks to Eligible Claimants, upon the receipt of a valid, written request from the Eligible Claimant. In cases where an Eligible Claimant is unable to endorse a disbursement check as written (*e.g.*, name change as a result of marriage, divorce or death), and the Eligible Claimant or its lawful representative requests the reissuance of a disbursement check under a different name, the Distribution Agent will request, and must receive, documentation supporting the change. The Distribution Agent will review the documentation to determine the authenticity and propriety of the change request. If such change request is properly documented, the Distribution Agent will, upon return and receipt of, or after placing a stop-payment on, the original check, issue an appropriately redrawn check to the requesting party. Such reissued checks will be void after thirty (30) days from issuance and in no event will a check be reissued after one hundred twenty (120) days after the original check was issued.

65. In addition, the Distribution Agent will make reasonable efforts to contact Eligible Claimants to follow up on the status of uncashed Distribution Payments over \$100.00 (other than those returned as “undeliverable”) and take appropriate action to follow up on the status of uncashed checks at the request of SEC staff. The Distribution Agent may reissue such checks, subject to the time limits detailed herein.

66. The Distribution Agent may perform an advanced address search for those checks that are returned as undeliverable, to the extent such search is feasible, and will reissue such checks so long as the new address is received within thirty (30) days after the original check was issued.

Furthermore, the Distribution Agent will take additional steps, as necessary, to follow up on the status of uncashed checks at the request of SEC staff and will reissue such checks if necessary, within one hundred-twenty (120) days after the original check was issued.

67. The Distribution Agent will work with the Bank and maintain information about uncashed checks, returned payments, any returned items due to non-delivery, insufficient addresses, and/or other deficiencies. The Distribution Agent is responsible for researching and reconciling errors and reissuing payments when possible and for maintaining a record of such efforts. The Distribution Agent is also responsible for accounting for all payments. The amount of all uncashed payments will continue to be held in the Net Fair Fund.

X. Residual Funds

68. A residual within the Net Fair Fund (the “Residual”) will be established for any amounts remaining after all assets have been disbursed. The Residual may include, among other things, funds reserved for Administrative Costs and for post-distribution contingencies, amounts from Distribution Payment checks that have not been cashed, amounts from Distribution Payment checks that were not delivered or accepted upon delivery, and tax refunds. For purposes of calculating the residual of the Net Fair Fund, any disgorgement amounts ordered by the Court shall be deemed to have been paid out first to Eligible Claimants, with any prejudgment interest and/or penalty amounts to be paid out to Eligible Claimants only after the total disgorgement has been paid out in full.

69. The Distribution Agent, in consultation with SEC staff, may distribute the Residual, if feasible, to Eligible Claimants in a manner that is consistent with this Distribution Plan up to the Recognized Loss amount for each Eligible Claimant and subject to the requirements of the Plan of Allocation detailed herein, provided however that the second distribution shall only be made to those Eligible Claimants who: (a) filed claims with the Distribution Agent after the Filing Deadline or who were late in curing a denied claim in accordance with the Distribution Plan, or (b) negotiated the checks issued, or received electronic payments, in the first distribution. Eligible

Claimants who did not receive or negotiate their Distribution Payments in the first distribution shall not receive any further distributions. Any distributions subsequent to the second distribution shall be limited to only those Eligible Claimants who negotiated the checks issued, or received electronic payments, in the immediately preceding distribution, and shall be in a manner that is consistent with the Distribution Plan and the Plan of Allocation detailed herein..

70. If, after the distribution is complete and all Administrative Costs have been paid, funds remain in the Fair Fund, and the Distribution Agent, in consultation with the SEC staff, has determined further distributions to be unfeasible, the Residual shall be transferred to the SEC, pending a final fund accounting. Upon completion of the final accounting, which will include a recommendation as to the final disposition of the Residual consistent with Section 21(d)(7) of the Exchange Act and *Liu v. SEC*, 140 S. Ct. 1936 (2020). If distribution of the Residual to investors is infeasible, the SEC staff may recommend the transfer of the Residual to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act.¹

XI. Wrap-Up and Wind Down of Distribution

71. The Distribution Agent shall retain in paper or electronic form all claims materials and all other distribution records for a period of six (6) years following submission of the final fund accounting. Pursuant to SEC staff's direction, the Distribution Agent will either turn over to the SEC or destroy all documents, including documents in any media, six (6) years after the approval of the final accounting. In addition, the Distribution Agent will terminate the toll-free number and website established specifically for the administration of the Fair Fund six (6) months after the transfer of any remaining funds to the SEC, or at an earlier date pursuant to the SEC staff's direction.

¹ Section 21F(g)(3) of the Exchange Act, 15 U.S.C. § 78u-6(g)(3), provides, in relevant part, that any monetary sanction of \$200 million or less collected by the SEC in any judicial action brought by the SEC under the securities laws that is not added to a disgorgement fund or fair fund or otherwise distributed to victims, plus investment income, shall be deposited or credited into the SEC Investor Protection Fund.

XII. Payment of Taxes and Administrative Costs

72. All Administrative Costs will be paid from the Fair Fund, subject to the review by the SEC's staff, upon Court approval.

XIII. Fair Fund Reporting and Accounting

73. The Distribution Agent shall provide SEC staff, who shall file with the Court, a progress report and a quarterly account statement in a format to be provided by the SEC staff, within forty-five (45) days of the Court approval of this Distribution Plan. The Distribution Agent shall also provide to the SEC staff, who will file with Court, additional reports and quarterly account statements within twenty (20) days following the end of each quarter thereafter.

74. The progress report and quarterly account statement shall inform the Court, and the SEC staff, of the activities and status of the Fair Fund during the relevant reporting period, and once the funds are transferred to the Distribution Agent will specify, at a minimum:

- a. the location of the account(s) comprising the Net Fair Fund; and
- b. an interim accounting of all monies in the Net Fair Fund as of the most recent month-end, including the value of those account(s), all monies earned or received into these account(s), funds distributed to Eligible Claimants under this Distribution Plan, and any monies expended from the Net Fair Fund to satisfy any fees, costs, taxes and other expenses incurred in the implementation of this Distribution Plan.

75. When the final distribution is completed, the Distribution Agent shall provide to SEC staff a final report summarizing all tasks undertaken and the outcome of its administrative efforts. The Distribution Agent shall make arrangements for the final payment of taxes and all other outstanding fees and expenses, and submit a final accounting of all monies received, earned, spent, and distributed in connection with the administration of the Distribution Plan.

XIV. Other Rights and Powers

76. The submission of a Claim Form and the receipt and acceptance of a distribution by an Eligible Claimant is not intended to be a release of an Eligible Claimant's rights and claims against any defendant to this action or their past or present directors, officers, employees, affiliates, nominees, creditors, advisors and agents.

77. The Distribution Agent is authorized to enter into agreements with financial institutions ("Institutions") as may be appropriate or necessary in the administration of the Net Fair Fund, provided that such Institutions are not excluded pursuant to other provisions of this Distribution Plan. In connection with such agreements, the Institutions shall be deemed to be agents of the Distribution Agent under this Distribution Plan.

78. All proceedings with respect to the administration, processing, and determination of claims and the determination of all related controversies, shall be subject to the exclusive jurisdiction of this Court.

XIV. Termination of the Fair Fund

79. Once all Distribution Payments have been negotiated or voided, any funds remaining in the Escrow and Deposit Accounts will be transferred to the SEC.

80. Upon receipt of the Residual, the SEC will seek an Order from the Court, as appropriate, approving the final accounting, discharging the Distribution Agent, disposing of the Residual, and terminating the Fair Fund.

81. The Fair Fund shall be eligible for termination and the Distribution Agent eligible for discharge, after all of the following have occurred: (a) a final report and final accounting has been submitted and approved by the Court; (b) all Administrative Expenses including taxes, fees, and other expenses have been paid; and (c) The Court has approved the SEC staff's recommendation as to the final disposition of the Residual consistent with Section 21(d)(7) of the Exchange Act and *Liu v. SEC*, 140 S. Ct. 1936 (2020).

82. Once the Fair Fund has been terminated, no further claims will be allowed and no additional payments will be made whatsoever.

ATTACHMENT A

Plan of Allocation

1. This Plan of Allocation provides for the distribution of the Net Fair Fund to Eligible Claimants based on their Recognized Loss, which will be calculated by totaling the harm for each purchase or acquisition of Homeland Safety common stock during the Relevant Period (“Harm Amount”) that is listed on the Claim Form and for which adequate documentation is provided and reducing the total by the amount of any compensation for the loss that resulted from the conduct described in the complaint in this case that was received from another source.

2. For each share of Homeland Safety purchased or otherwise acquired during the period from May 17, 2005 through April 6, 2006, inclusive, and:

- a. Sold on or before April 6, 2006, the Harm Amount will be the purchase/acquisition price paid minus the sale price.
- b. Held as of the close of trading on April 6, 2006, the Harm Amount will be \$0.78 per share, the average closing price over the 30-day period commencing on April 6, 2006.

3. An Eligible Claimant’s Recognized Loss under the Plan of Allocation will be the sum of his, her or its Recognized Loss per share on all shares for which the calculation was performed in Paragraph 2. If the sum is positive, reflecting an overall loss, the Eligible Claimant will have a Recognized Loss. If the sum is negative, reflecting an overall gain, the Eligible Claimant’s Recognized Loss will be zero. An Eligible Claimant will be eligible to receive a distribution not to exceed his, her or its Recognized Loss, subject to the Net Market Loss provision below.

4. For each Eligible Claimant who held shares of Homeland Safety common stock as of the beginning of the Relevant Period or made multiple purchases and/or sales during the Relevant Period, the first-in, first-out (“FIFO”) method will be applied to such holdings, purchases, and sales.

Under the FIFO method, sales of shares during the Relevant Period will be matched, in chronological order, first against shares held at the beginning of the Relevant Period. The remaining sales of shares during the Relevant Period will then be matched, in chronological order, against shares purchased during the Relevant Period. The date of acquisition or sale is the “trade” date as distinguished from the “settlement” date. Option contracts will not be valued.

5. If the sale date for a share of the Eligible Security falls before the purchase date (a “short sale”) then the Recognized Loss for that share is \$0.00. In the event that there is an opening short position in Homeland Safety common stock, the earliest purchases of Homeland Safety common stock during the Relevant Period shall be matched against such opening short position, and not be entitled to a recovery, until that short position is fully covered. For such short sales the eligible loss per share will be \$0.00.

6. Purchase price paid and sale price received will not include taxes, commissions or other fees.

7. If an Eligible Claimant had a Net Market Gain from transactions in Homeland Safety common stock during the Relevant Period, the value of the Recognized Loss will be zero.

8. If an Eligible Claimant suffered a Net Market Loss on transactions in Homeland Safety common stock during the Relevant Period, but that Net Market Loss was less than the Eligible Claimant’s Recognized Loss calculated above, then the Eligible Claimant’s Recognized Loss will be limited to the Net Market Loss.

9. For purposes of determining whether an Eligible Claimant had a Net Market Loss or Profit from all transactions in Homeland Safety common stock purchased during the Relevant Period, the Distribution Agent shall: (a) sum the amount paid for all Homeland Safety common stock purchased during the Relevant Period; (b) match any sales of Homeland Safety common stock during the Relevant Period first against the opening position in the stock (the proceeds of those sales will not be considered for purposes of calculating gains or losses); (c) sum the amount

received for sales of the remaining shares of Homeland Safety common stock sold during the Relevant Period; and (d) ascribe a \$0.78 per share holding value for the number of shares of Homeland Safety common stock purchased during the Relevant Period and still held at the close of trading on April 6, 2006. The difference between: (a) the total purchase amount, (b) the sum of the sales proceeds, and (c) the holding value will be deemed an Eligible Claimant's Net Market Loss if the difference is positive, or Net Market Gain if the difference is negative.

10. If the Net Fair Fund equals or exceeds the sum of all Recognized Losses of all Eligible Claimants, each Eligible Claimant will receive a Distribution Payment equal to the amount of his, her, or its Recognized Loss. If the Net Fair Fund is not sufficient to pay the full Recognized Loss for all Eligible Claimants, then each Eligible Claimant will receive a Distribution Payment that their Recognized Loss bears in proportion to the total Recognized Loss of all Eligible Claimants (“*Pro-Rata Share*”). In no instance will an Eligible Claimant receive a Distribution Payment that when combined with his, her, or its Prior Recovery exceeds his, her, or its Recognized Loss.

11. If an Eligible Claimant's Distribution Payment is less than \$10.00 (the “Minimum Distribution Amount”), that Eligible Claimant will not receive a Distribution Payment and the funds will be distributed to other Eligible Claimants whose Distribution Payments are equal to or greater than \$10.00.