

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-12947

**IN THE MATTER OF RITCHIE
CAPITAL MANAGEMENT LLC,
RITCHIE MULTI-STRATEGY
GLOBAL TRADING LTD., A.R.
THANE RITCHIE AND WARREN
LOUIS DEMAIO**

PROPOSED PLAN OF DISTRIBUTION

Respondents.

Background

This Plan of Distribution (the “Distribution Plan”) proposes a methodology for distributing the disgorgement and civil penalties paid by Ritchie Capital Management L.L.C. (“Ritchie Capital”), Ritchie Multi-Strategy Global Trading Ltd. (“RMS Fund”), A.R. Thane Ritchie (“Thane Ritchie”), and Warren Louis DeMaio (“DeMaio”) (collectively “Respondents”), in settlement of the administrative proceeding captioned above.

On February 5, 2008, the Respondents consented to the entry of an Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and Imposing a Cease-and-Desist Order pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, and Sections 203(e) and 203(f) of the Investment Advisers Act of 1940, and Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Order”). In the Matter of Ritchie Capital Management LLC et al., Securities Act Rel. No. 8890, Admin. File No. 3-12947 (Feb. 5, 2008). The Order found that from at least January 2001 through September 2003, Ritchie Capital engaged in an illegal late trading scheme. Specifically, Ritchie Capital placed thousands of late trades in mutual fund shares and used post-4:00 p.m (ET) news and market information to make its mutual fund trading decisions while receiving the same day’s net asset value (“NAV”) for the mutual funds traded. Thane Ritchie approved the use of late trading by Ritchie Capital’s mutual fund group, reviewed the performance of the group, and occasionally suggested mutual fund late trades. DeMaio supervised mutual fund trading at Ritchie Capital and was involved in the development of various mutual fund trading strategies, including late trading. As a result of that conduct, the Order found that the Respondents willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and also willfully aided and abetted and caused violations of Rule 22c-1 of the Investment Company Act. The Respondents consented to the entry of the Order without admitting or denying the Order’s findings.

As required by the Order, Ritchie Capital and RMS Fund paid to the Securities and Exchange Commission (the “Commission”) disgorgement, jointly and severally, in the amount of \$30 million and prejudgment interest, jointly and severally, of \$7,441,966.82. As also required

by the Order, Ritchie Capital and Thane Ritchie paid a civil money penalty, jointly and severally, of \$2,500,000, DeMaio paid a civil money penalty of \$250,000, and both Thane Ritchie and DeMaio each paid disgorgement in the amount of \$1.00, for a total payment of \$40,191,968.82 ("Settlement Amount"). Those payments were placed into a Fair Fund, created by the Order pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 (the "Distribution Fund"), for the ultimate benefit of the mutual funds affected by the late trading described in the Order (the "Affected Mutual Funds"). Those payments are currently deposited at the U.S. Treasury Bureau of Public Debt for investment in government obligations. Other than interest generated by the investment of those payments, it is not anticipated that the Distribution Fund will receive any additional money.

Pursuant to the Order, Ritchie Capital undertook to develop a Distribution Plan for the Distribution Fund in consultation with the advisers of the Affected Mutual Funds and subject to the approval of the Commission. Upon Commission approval of the Distribution Plan and appointment of a Plan Administrator, as provided in Rule 1104 of the Commission's Rules on Fair Fund and Disgorgement Plans, Ritchie Capital further undertook to (1) assist the Commission-appointed Plan Administrator in the distribution of the disgorgement and civil penalties to the Affected Mutual Funds; and (2) pay all costs associated with administering and implementing the final Distribution Plan, including the costs of the Plan Administrator and a Tax Administrator for the Distribution Fund. The assets of the Distribution Fund are subject to the continuing jurisdiction and control of the Commission.

Administration of the Distribution Plan

1. **Purpose.** The Distribution Plan has been developed pursuant to the Order and the SEC Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1100, *et seq.* (the "Rules"). As set forth in the Order, the purpose of the Distribution Plan is "to distribute fairly and proportionately to the affected mutual funds the total disgorgement and civil penalties..."

2. **Plan Administrator.** Rule 1105(a) provides that the Commission "shall have the authority to appoint any person . . . as administrator of a plan of disgorgement of a Fair Fund and to delegate to that person responsibility for administering the plan." Section 33 paragraph 4 of the Order specifically requires that the Commission shall appoint a Plan Administrator to oversee the distribution of the disgorgement and civil penalty to the Affected Mutual Funds. Ritchie Capital has proposed Bart M. Schwartz as Plan Administrator. Mr. Schwartz is an attorney with his own law practice located in New York, New York and has substantial experience serving as an independent receiver and monitor. The Plan Administrator will be responsible for, among other things: overseeing the administration of the Distribution Fund, obtaining accurate mailing information for the Affected Mutual Funds, preparing accountings, cooperating with the Tax Administrator in providing the information necessary to accomplish income tax compliance, and distributing money from the Distribution Fund to the Affected Mutual Funds in accordance with this Plan. Ritchie Capital has agreed to pay all costs associated with the administration of the Distribution Fund.

3. **Bonds.** Because the Plan Administrator is not a Commission employee, Rule 1105(c) requires that he obtain a bond in the manner prescribed in 11 U.S.C. 322 in an amount approved by the Commission. Further, Rule 1105(c) provides that the Commission may "waive posting of a bond for good cause shown." Ritchie Capital requests that the bond requirement be

waived. The Plan Administrator does not and will not have custody of the Distribution Fund, which will remain deposited at the U.S. Treasury Bureau of Public Debt. Payments will be made from the Distribution Fund only in accordance with the procedures set forth herein. The Plan Administrator will not have custody of the Distribution Fund at any point during the distribution process.

4. Accountings. As required by Rule 1105(f), while the Distribution Plan is being implemented, the Plan Administrator will file with the Commission, within the first ten days of each calendar quarter, “an accounting of all monies earned or received and all monies spent in connection with the administration of the plan of disgorgement.” The Plan Administrator will also submit a final accounting for approval of the Commission prior to termination of the Distribution Fund and the discharge of the Plan Administrator.

Distribution Plan and Procedures

5. Receipt of Additional Funds. Rule 1101(b)(1) provides, among other things, that a distribution plan shall include “[p]rocedures for the receipt of additional funds.” The Distribution Fund has been deposited at the U.S. Treasury Bureau of Public Debt for investment in government obligations. Other than interest from these investments, it is not anticipated that the Distribution Fund will receive any additional funds.

6. Identifying the Affected Mutual Funds. Rule 1101(b)(2) provides that a distribution plan shall include a “[s]pecification of categories of persons potentially eligible to receive proceeds from the fund.” The Affected Mutual Funds are the mutual funds whose value was diluted by the late trading activities described in the Order. Pursuant to the Order, the proceeds of the Fair Fund will be paid to the Affected Mutual Funds. Ritchie Capital, in consultation with the staff of the Commission assigned to this matter (the “Staff”), has already identified the Affected Mutual Funds and calculated the distribution amounts to be paid to each fund. The Affected Mutual Funds are identified in Appendix A.

7. Methodology for Determining Distribution Amounts. Ritchie Capital has calculated the amounts to be distributed to each Affected Mutual Fund (the “Distribution Amounts”) using a “next-day NAV” analysis. The next-day NAV analysis computes dilution to mutual funds from late trading as the product of the number of shares purchased and the difference between the net asset value (“NAV”) the day after the purchase and the NAV on the day of the purchase, plus the product of the number of shares sold and the difference between the NAV on the sale date and the NAV on the day after the sale. The next-day NAV method thus captures the dilution caused to mutual funds and is an appropriate method for allocating the Distribution Fund on the specific facts of this case. Each Affected Mutual Fund will receive a proportionate share of the Distribution Fund based on the amount calculated by the next-day NAV analysis. This method of calculating each Affected Mutual Fund’s share of the Distribution Fund is intended to result in a payment to each Affected Mutual Fund that restores the impaired value of each Affected Mutual Fund. Some of this impaired value is susceptible to calculation, while some of this impaired value is not. However, this method of calculation is intended to estimate fairly the impaired value that each Affected Mutual Fund has suffered. In the view of the proposed Plan Administrator, this method constitutes a fair and reasonable allocation of the Distribution Fund.

8. Locating and Notifying the Affected Mutual Funds. Rule 1101(b)(3) provides that a plan shall include “[p]rocedures for providing notice to [potential claimants – here, the

Affected Mutual Funds] of the existence of the fund and their potential eligibility to receive the proceeds of the fund.” In this case, Ritchie Capital and the Staff have already identified the Affected Mutual Funds and calculated the distribution amounts to be paid to each fund. The Order requires that Ritchie Capital provide the adviser for each of the Affected Mutual Funds or any successor fund with (a) a copy of the Order, (b) the proposed amount of disgorgement and civil penalty to be paid to the fund, and (c) a description of the methodology used to calculate that amount. The Plan Administrator, on behalf of Ritchie Capital, will provide such notice by United States Postal Service and will request at that time from the adviser for each Affected Mutual Fund information necessary to accomplish the distribution, including the tax identification number for the fund, the payment address, contact information and/or wiring instructions. If the adviser for an Affected Mutual Fund fails to respond to such notice within twenty-one (21) days from the mailing of the notice, the Plan Administrator will send a second written notice by mail. If the adviser for an Affected Mutual Fund does not respond to the second notice within twenty-one (21) days, the Plan Administrator will make three attempts to contact the adviser of the fund (or its successor) telephonically.

9. No Claims Process. Rule 1101(b)(4) provides, among other things, that a plan shall include “[p]rocedures for making and approving claims, procedures for handling disputed claims, and a cut-off date for the making of claims.” The Distribution Fund is not being distributed according to a claims-made process, so the procedures for providing notice and for making and approving claims are not applicable.

10. Checks/Electronic Transfers. The Plan Administrator may elect to make payment of any Distribution Amount to an Affected Mutual Fund by check or electronic transfer. All checks shall bear a stale date of 90 days. All payments shall be preceded or accompanied with a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a description of the tax information reporting and other related tax matters; (c) a statement that checks will be void (non-negotiable) after 90 days; and (d) the name of a person to contact with questions concerning the distribution. This communication will be submitted to the Staff for review and approval. Distribution checks, on their face, or in the accompanying communication will clearly indicate that the money is being distributed from a Fair Fund established by the Commission pursuant to the Order in this case. Checks that are not negotiated prior to the stale date shall be voided. Electronic credits will be made only to cash equivalent accounts (e.g., checking or savings accounts).

11. Implementation of the Distribution Plan. The actual distribution of the Distribution Fund to the Affected Mutual Funds will be processed by the Commission’s Office of Financial Management via the Financial Management Service, United States Department of Treasury (“FMS”), which will issue checks or electronically transfer funds to the Affected Mutual Funds pursuant to the procedures contained in this Distribution Plan and as instructed by the Plan Administrator. Paragraph 33 of the Order previously authorized payment to the Affected Mutual Funds (whose identities were known at that time). The Distribution Fund disbursements will be made as follows:

a. The Commission will provide the Plan Administrator with its proprietary software for the submission, in “Agency Input Format,” of the information necessary to issue checks or electronically transfer funds through the Automated Clearing House (“ACH”).

b. The Plan Administrator will compile the information into an electronic file in the Agency Input Format and submit this electronic file to the staff, who will obtain authorization from the Commission to disburse pursuant to Rule 1101(b)(6). The list of Affected Mutual Funds and respective Distribution Amounts in the electronic file will be validated to the Commission by the Plan Administrator. The validation will state that the electronic file was compiled in accordance with the Distribution Plan and provides all the information necessary for FMS to make disbursements by either check or ACH.

c. The Commission, through its Office of Financial Management, will transmit the electronic file to FMS for the transfer of funds. Within 48 hours of receipt by FMS, checks will be mailed and/or funds will be transferred by the ACH.

12. Returned Checks/Electronic Transfer Procedures. FMS will notify the Office of Financial Management, which in turn will notify the Plan Administrator, of any returned items due to non-delivery, insufficient addresses, and/or other deficiencies. The Plan Administrator shall be responsible for researching and reconciling all errors that result in non-delivery and shall, where appropriate, submit a supplemental electronic file for payment of the returned items. The Plan Administrator also is responsible for accounting for all payments. After one year from the date of the distribution check, FMS shall notify the Office of Financial Management, which in turn, will notify the Fund Administrator, of all uncashed checks and will credit the Commission account for the Distribution Fund for the amount of all uncashed checks.

13. Undisbursed Amounts. Rule 1101(b)(5) requires that the distribution plan make “provision for the disposition of any funds not otherwise distributed.” Upon exhaustion of all procedures to identify and locate the Affected Mutual Funds and to reconcile all errors that result in non-delivery, if any portion of the Distribution Fund remains undisbursed (whether because an Affected Mutual Fund has failed to supply identifying information, because the Plan Administrator was unable to locate an Affected Mutual Fund or its successor, because an Affected Mutual Fund or its successor no longer exists, because a check becomes stale, or for some other reason), it will be remitted to the General Fund of the U.S. Treasury.

14. Termination of the Distribution Fund. Rule 1101(b)(5) requires that the distribution plan include a “proposed date for the termination of the fund...” Upon distribution of the funds, the Plan Administrator shall make arrangement for the final payment of taxes and Tax Administrator fees, and shall submit a final accounting to the Commission. The Distribution Fund shall be eligible for termination after all of the following have occurred: (1) the final accounting by the Plan Administrator has been submitted and approved by the Commission; (2) all taxes and fees have been paid; and (3) any undisbursed funds have been transferred to the U.S. Treasury. The Staff shall seek an order from the Commission to (1) approve the final accounting; (2) approve sending any undisbursed funds to the U.S. Treasury after the final tax payment has been made; and (3) authorize the Secretary of the Commission to discharge the Plan Administrator, upon receipt of notice from the Staff that all funds have been disbursed.

15. Fees and Costs of Administering the Distribution Plan. Ritchie Capital will pay all fees and costs associated with the administration of the Distribution Plan, including the fees of the Plan Administrator, except for tax liabilities, which will be paid according to Rule 1105(e).

16. Tax Administrator The Commission has appointed Damasco & Associates as the tax administrator for the Distribution Fund (the “Tax Administrator”). In the Matter of Ritchie

Capital Management et al., Exchange Act Rel. No. 57549, Admin. File No. 3-12947 (Mar. 24, 2008). The Plan Administrator will cooperate with the Tax Administrator in providing information necessary to accomplish the income tax compliance, ruling and advice work assigned to the Tax Administrator by the Commission. The Tax Administrator shall be compensated by Ritchie Capital.

17. Qualified Settlement Fund. The Distribution Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code, 26 U.S.C. §468B(g), and related regulations, 26 C.F.R. §§1.468B-1 through 1.468B-5.

18. Amendment. The Plan Administrator will inform the Staff of any material changes to the Distribution Plan, and will obtain approval from the Commission prior to their implementation. If material changes are required, this Distribution Plan may be amended upon the motion of the Plan Administrator or upon the Commission’s own motion and receipt of Commission approval.

19. Audit of Ritchie Capital. The Commission retains the right to appoint an independent audit firm, at Ritchie Capital’s expense, to review Ritchie Capital’s function in the distribution process should such an audit be deemed necessary.

20. Distribution Timing. Section 33 paragraph 4 of the Order provides that “Ritchie Capital shall take all necessary and appropriate steps to assist the Commission-appointed Plan Administrator in the distribution of the disgorgement and civil penalty to the affected mutual funds.” The Plan Administrator will use its best efforts to start the distribution within thirty (30) days after the Commission’s order approving the final Distribution Plan and appointing the Plan Administrator and to complete the distribution within sixty (60) days of the distribution start date.

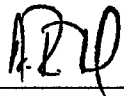
21. Deadline Extensions. The Staff may extend any deadline contained in the Distribution Plan for good cause shown.

Notice of Proposed Distribution Plan

22. In accordance with Rule 1103, notice of the Distribution Plan shall be published in the SEC Docket, on the Commission’s website at www.sec.gov/litigation/fairfundlist.htm, and on Ritchie Capital’s website at www.rcmdistributionplan.com. Any person or entity wishing to comment on the Distribution Plan must do so in writing by submitting their comments to the Commission within thirty (30) days of the publication date of the Distribution Plan: (a) by sending a letter to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090; (b) by using the Commission’s internet comment form (available at <http://www.sec.gov/litigation/admin.shtml>); or (c) by sending an e-mail to rule-comments@sec.gov. Comments submitted by e-mail or via the Commission’s website should include the Administrative Proceeding File Number (Admin. Proc. File No. 3-12947) in the subject line. Comments received will be available to the public. Commenters should therefore only submit information that they wish to make publicly available.

Submitted on: July 8, 2008

RITCHIE CAPITAL MANAGEMENT, L.L.C.

By: 

Name: A.R. Thane Ritchie

Title: Chief Executive Officer

APPENDIX A

- Janus Mercury Fund (now the Janus Research Fund)
- Janus Risk Managed Stock Fund
- ASAF Janus Capital Growth A
- Alger LargeCap Growth Fund – Class A
- Liberty Stein Roe Growth Stock Fund (now the Columbia Large Cap Growth Fund)
- Harbor Capital Appreciation Fund
- Turner Mid Cap Growth Fund
- MFS Growth Opportunities Fund (now merged into Massachusetts Investors Growth Fund)
- Massachusetts Investors Trust
- MFS Emerging Growth Fund (now the MFS Growth Fund)
- Massachusetts Investors Growth Stock Fund
- Alliance Growth A (now the AllianceBernstein Portfolios – AllianceBernstein Growth Fund)
- Alliance Growth & Income A (now the AllianceBernstein Growth and Income Fund, Inc.)
- Alliance Technology A (now the AllianceBernstein Global Technology Fund, Inc.)
- Alliance Premier Growth A (now the AllianceBernstein Large Cap Growth Fund, Inc.)
- Prudential Jennison Growth Z