

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES AND EXCHANGE ACT OF 1934**  
**Release No. 86551 / August 1, 2019**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18909**

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<b>In the Matter of</b>	:	
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<b>Fifth Street Management, LLC</b>	:	<b>ORDER APPROVING</b>
	:	<b>PLAN OF DISTRIBUTION</b>
<b>Respondent.</b>	:	
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On December 3, 2018, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 and Section 9(f) of the Investment Company Act of 1940 Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”)<sup>1</sup> against Fifth Street Management, LLC (the “Respondent”). The Commission determined, in relevant part, that, in 2013 and 2014, the Respondent improperly allocated to its former business development clients -- Fifth Street Finance Corp. and Fifth Street Senior Floating Rate Corp. (collectively, the “BDC clients”) -- rent and other overhead expenses, and certain compensation expenses that the Respondent should have paid. The Commission ordered the Respondent to pay disgorgement of \$1,999,115.86, prejudgment interest of \$334,545.65, and a civil money penalty of \$1,650,000.00 to the Commission. In the Order, the Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty, along with the disgorgement and prejudgment interest, collected can be distributed to those harmed by the Respondent’s conduct described in the Order (the “Fair Fund”). The Respondent has paid in full, and the Fair Fund holds \$3,983,661.51 plus accrued interest.

The Fair Fund is deposited in an interest-bearing account at the United States Treasury Department’s Bureau of the Fiscal Service. The assets of the Fair Fund are subject to the continuing jurisdiction and control of the Commission.

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<sup>1</sup> Securities Act Rel. No. 10581 (Dec. 3, 2018).

On April 18, 2019, the Commission issued an Order<sup>2</sup> appointing Epiq Class Action & Claims Solutions, Inc. as the fund administrator in the above-captioned proceeding and setting the administrator's bond at \$3,983,661.51.

On June 24, 2019, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment (the "Notice")<sup>3</sup> pursuant to Rule 1103 of the Commission's Rules on Fair Fund and Disgorgement Plans.<sup>4</sup> The Notice advised interested parties that they could obtain a copy of the proposed Plan of Distribution (the "Plan") from the Commission's public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Catherine E. Pappas, Esq., United States Securities and Exchange Commission, One Penn Center, 1617 JFK Blvd., Ste. 520, Philadelphia, PA 19103.

The Notice also advised that all persons desiring to comment on the Plan could submit their comments, in writing, no later than thirty (30) days from the publication of the Notice (1) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090; (2) by using the Commission's Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or (3) by sending an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). The Commission received no comments on the Plan during the comment period.

The Plan provides for the distribution of the Net Fair Fund<sup>5</sup> to compensate investors in the common stock of the BDC clients during the relevant period for the Respondent's misallocation of expenses.

The Division of Enforcement now requests that the Commission approve the Plan.

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Commission's Rules on Fair Fund and Disgorgement Plans,<sup>6</sup> that the Plan is approved, and posted simultaneously with this order on the Commission's website at [www.sec.gov](http://www.sec.gov).

For the Commission, by its Secretary, pursuant to delegated authority.

Vanessa A. Countryman  
Secretary

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<sup>2</sup> Order Appointing Fund Administrator and Setting Administrator Bond Amount, Exchange Act Rel. No. 85684 (Apr. 18, 2019).

<sup>3</sup> Exchange Act Rel. No. 86190 (June 24, 2019).

<sup>4</sup> 17 C.F.R. § 201.1103.

<sup>5</sup> All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Plan.

<sup>6</sup> 17 C.F.R. § 201.1104.