

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DIAMOND FOODS, INC.,

Defendant.

NO. 3:14-cv-00123-WHA

**~~PROPOSED~~ ORDER TO ESTABLISH A FAIR FUND AND APPOINT A
DISTRIBUTION AGENT**

The Court having reviewed the Securities and Exchange Commission's ("SEC" or "Commission") Motion to Establish a Fair Fund and Appoint a Distribution Agent and for good cause shown,

IT IS HEREBY ORDERED:

1. The Motion is GRANTED.
2. A Fair Fund is created pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 [15 U.S.C. §7246(a)], as amended by the Dodd-Frank Act of 2010 [15 U.S.C. §7246].
3. Kurtzman Carson Consultants, LLC ("KCC") is appointed to serve as the distribution agent of the Fair Fund in this matter, pursuant to the terms of a distribution plan to be approved by this Court. KCC shall coordinate with the Court-appointed Tax Administrator, Damasco & Associates LLP, to ensure that the proposed Fair Fund, Qualified Settlement Fund ("QSF") under Section 468B(g) of the Internal Revenue Code, and related regulations, 26 C.F.R. §§1.468B-1 through 5, complies with all related legal

and regulatory requirements, including but not limited to, satisfying any reporting or withholding requirements imposed on distributions from the QSF.

4. KCC shall invoice all administrative fees and expenses incurred in the administration and distribution of the proposed Fair Fund to the Commission for review and approval by Commission staff. Any unresolved objections to an invoiced amount will be referred to the Court.

5. Once the distribution plan is approved, KCC will submit quarterly progress reports to the Commission staff and a final accounting report for the Fair Fund, in a format to be provided by the Commission staff, when KCC duties are completed. Commission staff shall file the final accounting report for the Fair Fund with the Court once it has been reviewed by Commission staff, and Commission staff has determined it has no objections.

6. KCC may be removed *sua sponte* at any time by the Court or upon motion of the Commission and replaced with a successor. In the event KCC decides to resign, it will first give written notice to the Court and to Commission staff of such intention, and the resignation, if permitted, will not be effective until the Court appoints a successor.

IT IS SO ORDERED.

Dated: November 3, 2016.



United States District Judge