

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

Defendants.

Case No. 1:18-cv-02381-CMA

PLAN NOTICE OF CLOVIS FAIR FUND

TO: Individuals and entities who purchased or otherwise acquired shares of Clovis Oncology, Inc. (“Clovis” or the “Company”) common stock during the period of July 7, 2015 through November 13, 2015, inclusive (the “Relevant Period”) and suffered a Recognized Loss Per Share according to the Distribution Plan (the “Plan”). You may be eligible for a Distribution Payment from the Clovis Fair Fund.

If you had an authorized claim in connection with the related Class Action, *Medina v. Clovis Oncology, Inc., et al.*, Civil Action No. 1:15-cv-2546-RM-MEH (D. Colo. Aug. 4, 2017), and received a Notice Letter, you do not need to submit a Claim Form now, unless you want to modify your claim. To modify your claim, you must submit a Claim Form so that it is postmarked or received on or before October 6, 2021.

If you had an unauthorized claim in connection with the Class Action that was denied for not having valid documentation supporting the purchases/acquisitions of Clovis common stock claimed, or the Claim Form is missing (i) a valid signature or (ii) the authority and/or the capacity of the person to sign on behalf of the beneficial owner, you must submit documentation to resolve your deficiency so that it is postmarked or received on or before October 6, 2021 (“Claims Bar Date”).

If you filed an exclusion from the class in connection with the class notice portion of the Class Action and would like to participate in this Fair Fund you will need to submit a Claim Form so that it is postmarked or received on or before October 6, 2021.

PLEASE READ THIS PLAN NOTICE CAREFULLY AND IN ITS ENTIRETY. IF YOU SATISFY THE ELIGIBILITY CRITERIA DESCRIBED BELOW, YOU MAY BE ELIGIBLE FOR A DISTRIBUTION PAYMENT FROM THE CLOVIS FAIR FUND. THIS PLAN NOTICE CONTAINS IMPORTANT INFORMATION REGARDING YOUR POSSIBLE ELIGIBILITY TO SHARE IN THE CLOVIS FAIR FUND.

¹ Capitalized Terms are as defined in the Distribution Plan.

I. Background

On September 18, 2018, the Commission filed a complaint (the “Complaint”) against Clovis Oncology, Inc. (“Clovis”) and Patrick J. Mahaffy (“Mahaffy”), its Chief Executive Officer, and Erle T. Mast (“Mast”), its former Chief Financial Officer (collectively, the “Defendants”). The Complaint alleged that, over a four-month period starting in July 2015, Clovis and Mahaffy misled investors about how well Clovis’ flagship lung cancer drug Rociletinib worked compared to another drug. Clovis raised approximately \$298 million in a public stock offering in July 2015 but saw its stock price collapse in November 2015 after disclosing that the effectiveness rate was actually 28 percent, versus the 60 percent efficacy figure that had been touted in the company’s investor presentations, press releases, and SEC filings. The company stopped development on the drug in May 2016. The Commission alleged, in part, that Clovis violated Section 17(a)(2) of the Securities Act of 1933 and Section 13(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 12b-20 and 13a-11 thereunder.

The Defendants were ordered to pay a total of \$20,804,145 in disgorgement, prejudgment interest, and penalties to the Commission. On September 24, 2018, Defendants paid the entire amount of their judgments to the Commission. The funds were deposited in an interest-bearing account at the United States Department of Treasury’s Bureau of Fiscal Service.

On July 2, 2019, the Court established a Fair Fund (“Fair Fund”), pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid, along with the disgorgement and prejudgment interest, can be distributed to investors harmed by the Defendants’ conduct described in the Complaint. The Court also appointed Miller Kaplan Arase LLP as the Tax Administrator to fulfill the tax obligations of the Fair Fund.

On December 2, 2019, Epiq Systems (“Epiq”) was appointed as the Distribution Agent of the Fair Fund to assist in overseeing the administration of the distribution of the Fair Fund.

The Order Approving Distribution Plan for the Fair Fund was entered on May, 19, 2021 and provides for the distribution of the Clovis Fair Fund, plus interest, less taxes, investment fees, and fees and expenses of tax and fund administration (“Net Available Fair Fund”) to Eligible Claimants, as defined by the Plan.

II. Eligibility Criteria and Distribution Methodology

If you purchased or otherwise acquired shares of Clovis common stock during the period from July 7, 2015 through November 13, 2015, are not excluded from the Fair Fund as defined below, and suffered a loss according to the Distribution Plan (the “Plan”), you may be eligible for a payment from the Clovis Fair Fund.

To be eligible for a payment from the Clovis Fair Fund, you must have purchased or otherwise acquired shares of Clovis common stock during the Relevant Period; have filed a claim in the Class Action on or before December 22, 2020, or filed an exclusion from the class in connection with the class notice portion of the Class Action (“opted out”); and satisfy the other criteria set forth in the Plan. Distribution Payments will be subject to a \$10.00 Minimum Distribution Amount.

If you filed an exclusion from the Class Action and would like to participate in this distribution, the Distribution Agent will require information from you regarding your transactions in Clovis common stock during the Relevant Period. If you have been identified as an individual or entity that opted out of the Class Action, you will be mailed a Claim Form with additional information and directions on how to participate in this distribution. Please read the Claim Form carefully. You must follow the directions in the Claim Form in order to be considered for eligibility.

The following parties are excluded from receiving any recovery from the Fair Fund and cannot be considered Eligible Claimants: (i) any director or officer, or former director or officer, of the Defendants, or any of Defendants’ past or present Affiliates who served in such capacity during the Relevant Period; (ii) any employee or former employee of Defendants or any of its past or present Affiliates who has been terminated for cause, or has otherwise resigned, in connection with the conduct described in the Complaint or in any related Commission action; (iii) any defendant in any action brought by the Commission related to the conduct described in the Complaint or any related Commission action, unless and until such defendant is found not liable in all such civil suits prior to the Claims Bar Date, and proof of the finding(s) is included in such defendant’s timely filed Claim Form; (iv) any Person, as of the Claims Bar Date, has been the subject of criminal charges related to the violations alleged in the Complaint or any related Commission action, unless and until such Person is found not guilty prior to the Claims Bar Date, and proof of the finding(s) is included in such Person’s timely filed Claim Form; (v) any purchaser or assignee of another Person’s right to obtain a recovery from the Fair Fund, provided, however, that provision shall not be construed to exclude those Persons who obtained such right by gift, inheritance, devise or operation of law; (vi) the Distribution Agent, its employees, and those persons assisting the Distribution Agent in its role as the Distribution Agent; and/or (vii) any Affiliates, assignees, creditors, heirs, distributees, spouses, parents, children, or controlled entities of any of the foregoing Persons or entities described above.

The Eligible Loss Amount incurred by an Eligible Claimant shall be determined as set forth in the Plan. The methodology used to determine eligibility and calculate Distribution Payments is set forth in the Plan of Allocation, Exhibit A of the Plan, which is available on the Clovis Fair Fund's website at www.ClovisFairFundDistribution.com.

Additional information or specification may be requested by the Distribution Agent before the commencement of Distribution Payments. Investors who do not timely provide requested information to the Distribution Agent may be deemed ineligible for a distribution under the Plan.

III. Obtaining a Plan of Distribution and Filing a Claim Form

If you have been determined to be a Class Action Authorized Claimant, you do not need to file a Claim Form unless you want to modify your existing claim. If you want to modify your existing claim, you may obtain a copy of the Claim Form from the Fair Fund website at www.ClovisFairFundDistribution.com or by calling toll-free at 1-833-991-0978, emailing Info@ClovisFairFundDistribution.com, or writing to *Clovis Fair Fund*, P.O. Box 5270, Portland, OR 97208-5270. A Taxpayer Certification Form has been included with the Notice Letter. The Taxpayer Certification Form is to ensure that the Fair Fund can comply with its reporting and/or withholding obligations and must be returned to the Distribution Agent at *Clovis Fair Fund*, P.O. Box 5270, Portland, OR 97208-5270.

If you have been determined to be an Unauthorized Class Action Claimant with a curable deficiency, your Notice Letter will include a Claim Deficiency Notice and a Taxpayer Certification Form. The Claim Deficiency Notice will contain the specific defects in your claim and how to resolve them. The Distribution Agent will require you to submit information in order to cure any deficiency on the claim in addition to submitting the Taxpayer Certification Form. If you require additional Claim Forms, you may download and print the Claim Form from the Clovis Fair Fund website at www.ClovisFairFundDistribution.com, or request that the Distribution Agent mail you a Claim Form by calling 1-833-991-0978, emailing Info@ClovisFairFundDistribution.com, or writing to Clovis Fair Fund, Distribution Agent, P.O. Box 5270, Portland, OR 97208-5270.

If you requested exclusion from the Class Action, a Claim Form and Taxpayer Certification Form has been included with the Plan Notice. A completed Claim Form along with the requested supporting documentation listed in the Claim Form must be postmarked or received on or before October 6, 2021 along with the Taxpayer Certification Form.

Additional information regarding the Clovis Fair Fund, including the Distribution Plan, may be found on the website at www.ClovisFairFundDistribution.com or <https://www.sec.gov/divisions/enforce/claims/clovis.htm>. You can also obtain a copy of the Plan and additional information by calling 1-833-991-0978, emailing Info@ClovisFairFundDistribution.com, or writing to *Clovis Fair Fund*, Distribution Agent, P.O. Box 5270, Portland, OR 97208-5270.

Additional Plan Notices may also be downloaded at the Clovis Fair Fund's website.

PLEASE CHECK THE WEBSITE WWW.CLOVISFAIRFUNDDISTRIBUTION.COM FREQUENTLY FOR UPDATES.

Clovis Fair Fund
P.O. Box 5270
Portland, OR 97208-5270

**SPECIAL NOTICE TO THIRD-PARTY FILERS, SECURITIES
BROKERS AND OTHER NOMINEES**

If you held Clovis common stock during the Relevant Period (July 7, 2015 through November 13, 2015, inclusive) for the beneficial interest of an individual or entity other than yourself, or submitted a claim on behalf of an investor, any Distribution Payments for Eligible Claimants must be made by check or electronic payment to the Eligible Claimant. Any other payment arrangement must be discussed with the Distribution Agent in consultation with the Commission staff. Compensation to Third-Party Filers or nominees for its services may not be paid or deducted from the Distribution Payment. If, after discussion with the Distribution Agent, and authorization by the Eligible Claimant(s), a Distribution Payment is to be made to a Third-Party Filer or nominee, then you must complete a certification which will require you to attest that any Distribution Payment will be allocated for the benefit of investors. The certification will be available on the Fair Fund website and upon request from the Distribution Agent.

Additional information related to Third-Party Filers and nominees can be found in the Distribution Plan.

All communications concerning the foregoing should be addressed to the Distribution Agent at the address below:

Clovis Fair Fund
P.O. Box 5270
Portland, OR 97208-5270
1-833-991-0978
info@ClovisFairFundDistribution.com