

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 62733 / August 16, 2010**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13446**

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<b>In the Matter of</b>	)	<b>ORDER APPROVING</b>
	)	<b>PLAN OF</b>
<b>American Skandia Investment</b>	)	<b>DISTRIBUTION,</b>
<b>Services, Inc.</b>	)	<b>APPOINTING FUND</b>
	)	<b>ADMINISTRATOR,</b>
<b>Respondent.</b>	)	<b>AND WAIVING BOND</b>
	)	

On April 17, 2009, the Securities and Exchange Commission (“Commission”) issued a settled Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order against American Skandia Investment Services, Inc. (“ASISI”) finding that ASISI accommodated widespread market timing in American Skandia Trust (“AST”) portfolios or sub-accounts that serve as funding vehicles for variable annuities issued by American Skandia Life Assurance Corporation (“ASLAC”) from at least January 2000 through in or around September 2003. See Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, Investment Advisers Act Release No. 2867 (“Order”). Among other things, the Commission ordered the Respondent to pay a total of \$68 million in disgorgement and civil penalties, which the Respondent paid in full. Pursuant to the Order, ASISI selected Professor Francis E. McGovern, Professor of Law at Duke University, as the Independent Distribution Consultant (“IDC”), to develop a distribution plan for the distribution of disgorgement and penalties (the “Fair Fund”). Since then, the IDC has developed a proposed distribution plan (the “Distribution Plan”) in consultation with the staff and ASISI.

The IDC proposed Rust Consulting, Inc. (“Rust”) as the Fund Administrator. In accordance with the Commission’s Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1100, *et seq.*, the Distribution Plan proposes a Fund Administrator and sets forth, among other things, procedures for the distribution of proceeds to funds or shareholders of funds; procedures for the administration of the Fair Fund, including provisions for filing tax returns; and a proposed timeframe for the termination of the Distribution Plan.

Rust Consulting, Inc., proposed in the Distribution Plan as the Fund Administrator, has not posted the bond generally required of third parties under Fair Fund Rule 1105(c). Rather, the Plan incorporates several layers of protection for the Fair Fund. Among other things, under the Plan: (1) the Fund Administrator will have no custody, and only limited control, of the Fair Fund; (2) the Fair Fund will be held by the U.S. Treasury Bureau of Public Debt until the funds are transferred to the Escrow Bank<sup>1</sup> immediately before transmittal of checks or electronic transfers to eligible investors; (3) upon transfer from the U.S. Treasury, funds will be held in an escrow account, separate from the Escrow Bank's assets until presentation of a check or electronic transfer, at which time funds will be transferred to a controlled distribution account; (4) presented checks or electronic transfers will be subject to "positive pay" controls before being honored by the Escrow Bank; and (5) both the Escrow Bank and the Fund Administrator will maintain, throughout this process, insurance and/or a financial institution bond that covers errors and omissions, misfeasance and fraud.

On May 13, 2010, the Commission published a "Notice of Proposed Distribution Plan and Opportunity for Comment" ("Notice") pursuant to Rule 1103 of the Commission's Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1103. See Exchange Act Release No. 62106. The Notice advised all interested parties that they may obtain a copy of the Distribution Plan from the Commission's public website, <http://www.sec.gov>, or by submitting a written request to Christopher R. Conte, Associate Director, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5561.

The Notice also advised that all persons desiring to comment on the Distribution Plan could submit their views, in writing, within thirty (30) days of the date of the Notice, to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090; by using the Commission's Internet comment form; or by sending an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). The Commission received no comments on the Distribution Plan and no modification has been made to the Distribution Plan since publication of the Notice.

Accordingly, IT IS HEREBY ORDERED that:

- A. Pursuant to Rule 1104 of the Commission's Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. §201.1104, the Distribution Plan is approved.
- B. Pursuant to Rule 1105(a) of the Commission's Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1105(a), Rust Consulting, Inc. is appointed as Fund Administrator; and

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<sup>1</sup> The "Escrow Bank" refers to Huntington Bank as defined in paragraph 5 and described in paragraph 54 of the Distribution Plan.

- C. The bond requirement of Rule 1105(c) of the Commission's Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1105(c), is waived for good cause shown.

By the Commission.

Elizabeth M. Murphy  
Secretary