

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99467 / February 5, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-21140

In the Matter of	:	
	:	
The Boeing Company,	:	ORDER APPROVING
	:	APPLICATION OF FUND
Respondent.	:	ADMINISTRATOR FOR PAYMENT
	:	OF FEES AND EXPENSES AND
	:	APPROVAL OF FUTURE FEES
	:	AND EXPENSES

ADMINISTRATIVE PROCEEDING
File No. 3-21141

In the Matter of	:
	:
Dennis A. Muilenburg,	:
	:
Respondent.	:
	:

On September 22, 2022, the Commission issued two separate, but related Orders (the “Orders”)¹ against The Boeing Company (“Boeing”) and Dennis A. Muilenburg (“Muilenburg”) (collectively, the “Respondents”). In the Orders, the Commission found that the Respondents failed to exercise reasonable care in making statements to the public following two fatal accidents (the Lion Air Flight 610 and Ethiopian Airlines Flight 302) involving its new 737 MAX line of aircraft. Those failures resulted in Respondents making materially misleading statements to investors in Boeing’s November 27, 2018, press release about the Lion Air crash and in Muilenburg’s public statements in April 2019 following the Ethiopian Airlines crash. By failing to exercise reasonable care to ensure those statements provided all facts necessary to make those statements to investors not misleading under the circumstances, Boeing and Muilenburg violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933.

¹ Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order, Securities Act Rel. No. 11105 (September 22, 2022), (Admin. Proc. File No. 3-21140); Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order, Securities Act Rel. No. 11106 (Sept. 22, 2022) (Admin Proc. File No. 3-21141).

In their respective Orders, the Commission ordered Boeing and Muilenburg to pay \$200,000,000 and \$1,000,000 in civil money penalties, respectively, to the Commission. In each of the Orders, the Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid can be distributed to harmed investors, and further ordered that it may be combined with any other distribution fund or fair fund arising out of the same facts that are the subject of the Order.

The Respondents have paid in full. In accordance with the Orders, the \$201,000,000 paid by the Respondents has been combined (collectively, the “Fair Fund”) and deposited in a Commission-designated account at the United States Department of the Treasury. Any accrued interest will be added to the Fair Fund for the benefit of harmed investors.

On May 10, 2023, the Division of Enforcement, pursuant to delegated authority, issued an order appointing Epiq Class Action & Claims Solutions, Inc. as the fund administrator of the Fair Fund and set the administrator’s bond amount.²

In accordance with Rule 1105(d) of the Commission’s Rules,³ the Fund Administrator has submitted to the Commission staff two invoices for services rendered from July 1, 2023, through August 31, 2023, totaling \$1,125.00. The Commission staff has reviewed the Fund Administrator’s invoices, confirmed that the services have been provided, and finds the fees and expenses of \$1,125.00 to be reasonable. The Commission staff has requested that the Commission authorize the Office of Financial Management (“OFM”) to pay the Fund Administrator’s fees and expenses of \$1,125.00 from the Fair Fund in accordance with Rule 1105(e) of the Commission’s Rules.⁴

Additionally, to expedite and streamline the process for future payments, the Commission staff has requested that the Commission authorize OFM, at the direction of an Assistant Director of the Office of Distributions, to pay the Fund Administrator’s future fees and expenses from the Fair Fund so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

² Order Appointing Fund Administrator and Set the Administrator’s Bond Amount, Exchange Act Rel. No. 97469 (May 10, 2023).

³ 17 C.F.R. § 201.1105(d).

⁴ 17 C.F.R. § 201.1105(e).

Accordingly, it is hereby ORDERED, pursuant to Rule 1105(d) of the Commission's Rules,⁵ that OFM pay the Fund Administrator's fees and expenses of \$1,125.00 from the Fair Fund in accordance with Rule 1105(e) of the Commission's Rules.⁶ Further, OFM is authorized to pay, at the direction of an Assistant Director of the Office of Distributions, any fees and expenses of the Fund Administrator from the Fair Fund in accordance with Rule 1105(e) of the Commission's Rules,⁷ so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁸

Vanessa A. Countryman
Secretary

⁵ 17 C.F.R. § 201.1105(d).

⁶ 17 C.F.R. § 201.1105(e).

⁷ 17 C.F.R. § 201.1105(e).

⁸ 17 C.F.R. § 200.30-4(a)(21)(vi).