

United States Securities and Exchange Commission

v.

Brantley Capital Management, LLC, et al.
1:09 Civ. 01906 (JSG)

DISTRIBUTION PLAN NOTICE
TO BRANTLEY CAPITAL CORP. INVESTORS

If you purchased the common stock of Brantley Capital Corp. (“Brantley”) from March 31, 2003, through and including October 24, 2005 (“SEC Recovery Period”), and suffered a loss according to the Distribution Plan¹ you may be eligible for a payment from the Distribution Fund.²

A federal court authorized this notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. IF YOU SATISFY THE ELIGIBILITY CRITERIA DESCRIBED BELOW, YOU MAY BE ENTITLED TO A RECOVERY FROM THE DISTRIBUTION FUND. THIS NOTICE CONTAINS IMPORTANT INFORMATION REGARDING YOUR ELIGIBILITY.

If you previously submitted an approved Proof of Claim Form in connection with the related Class Action, *Karpus Mgmt., Inc. v. Brantley Capital Corp., et al.*, 1:07-cv-01716 (JSG) (N.D. Ohio), and you received a Notice of Eligibility with this Distribution Plan Notice, you do not need to submit a claim now, unless you want to modify your claim. If you want to modify your claim, you must submit a Proof of Claim Form postmarked no later than December 11, 2013 (the “Claims Bar Date”) to share in any recovery from the Distribution Fund.

Also, if you purchased Brantley Capital Corp. common stock (“Brantley Securities”) during the SEC Recovery Period and you: (a) did not file a claim in the Class Action; (b) filed a claim in the Class Action that was denied; or (c) filed a claim in the Class Action that was approved, but under the terms of this Distribution Plan has a Net Recognized Loss less than or equal to \$0.00, you must submit a completed Proof of Claim Form with the necessary documentation postmarked no later than December 11, 2013 to be eligible to participate in the Distribution Fund.

I. Purpose of this Notice

1. The purpose of this Distribution Plan Notice is to inform you that you may be entitled to share in the proceeds of the Distribution Fund established by the Securities and Exchange Commission (“SEC” or “Commission”) in *SEC v. Brantley Capital Mgmt., et al.*, 09-cv-1906 (JSG) (N.D. Ohio). Unless you are a Class Action SEC Authorized Claimant described below, you must file a Proof of Claim Form in accordance with the steps in this Distribution Plan Notice to be potentially eligible to share in the Distribution Fund. The Distribution Plan Notice is being mailed to potentially eligible investors who purchased or acquired Brantley Securities during the SEC Recovery Period (**March 31, 2003** through and including **October 24, 2005**) and who can be identified by the Court-appointed Distribution Agent, Epiq Class Action & Mass Tort Solutions (“Epiq”). Copies of the Distribution Plan Notice, Proof of Claim Form, and other important documents are also available on the Brantley Fair Fund website at www.secvbrantleyfairfund.com and through the SEC’s website at www.sec.gov.

II. Background

2. On August 13, 2009, the Commission filed a civil action against Brantley Capital Management, LLC, Robert Pinkas (“Pinkas”), and Tab Keplinger (collectively, “Defendants”). The Complaint alleged that between 2002 and 2005, Defendants substantially overstated the value of equity and debt investments in two failing companies that

¹ Unless otherwise defined herein, capitalized terms shall have the same meaning as those set forth in the Distribution Plan as approved by the Court on July 29, 2013.

² The Distribution Fund may also be referred to as the Fair Fund.

represented over one-half of Brantley's investment portfolio to generate higher investment advisory fees, made material misrepresentations and failed to make required disclosures regarding the two companies to Brantley's board of directors, independent auditors, and to investors. Among other things, the Complaint charges Defendants with violating the antifraud statutes contained in the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.

3. Pursuant to the final Judgment entered against Pinkas on September 28, 2010, approximately **\$960,000**, was paid to the Clerk of the Court (the "Distribution Fund" or "Fair Fund"). The Distribution Fund is currently held with the Court Registry Investment System ("CRIS") in interest-bearing Government Account Series securities. The final judgment provided that the SEC may propose a plan to distribute these funds to injured investors subject to the Court's approval.
4. On July 8, 2013, Commission staff submitted the Distribution Plan to the Court, and it was approved on July 29, 2013. Pursuant to the Distribution Plan, investors who purchased or acquired Brantley Securities during the Recovery Period and suffered a loss may be entitled to receive a distribution from the Distribution Fund.

ELIGIBILITY CRITERIA AND CALCULATIONS OF LOSSES

III. Eligibility Criteria

5. To be an Eligible Claimant you must be either a Class Action SEC Authorized Claimant as defined below, or you must submit a valid Proof of Claim Form to the Distribution Agent postmarked no later than **December 11, 2013**.
6. A "Class Action SEC Authorized Claimant" is a Person who had a valid claim in the Class Action and whose claim has a Net Recognized Loss greater than \$0.00 under the Distribution Plan. If you are a Class Action SEC Authorized Claimant, you **do not** need to file a Proof of Claim Form to share in the distribution from the Distribution Fund; however, if you want to modify your claim, you must submit a Proof of Claim Form postmarked by **December 11, 2013**. Class Action SEC Authorized Claimants will receive a Notice of Eligibility with this Distribution Plan Notice. If you did not receive a Notice of Eligibility, then you are not a Class Action SEC Authorized Claimant and must submit a Proof of Claim Form to participate in the distribution. If you have questions about a claim you filed in the Class Action matter, please contact the Distribution Agent in writing or by calling (877) 868-8230 or by sending an email to info@secvbrantleyfairfund.com.
7. If you: (a) did **not** file a claim in the Class Action; (b) filed a claim in the Class Action that was denied; or (c) filed a claim in the Class Action that was approved, but under the terms of the Distribution Plan has a Net Recognized Loss less than or equal to \$0.00, you **must** file a Proof of Claim Form in order to share in any recovery from the Distribution Fund. To be considered eligible to participate in the distribution, you must have purchased Brantley Securities from March 31, 2003 through and including October 24, 2005, and suffered a loss as defined in the Distribution Plan. Please note that filing a Proof of Claim Form does not guarantee that you will be eligible for any recovery.
8. The following parties are excluded from receiving any recovery from the Distribution Fund and cannot be considered Eligible Claimants:
 - a. Any director or officer, or former director or officer, of Brantley Capital Management or any of its past or present Affiliates (or any of his or her assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities) who served in such capacity during the SEC Recovery Period;
 - b. Any employee of Brantley Capital who has been terminated for cause in connection with the violations alleged in the Commission's complaint in this action or any related Commission action, or who was otherwise terminated or has resigned in connection with the violations alleged in the Commission's Complaint in this action;
 - c. Any defendant in any action brought by the Commission or any class action lawsuit related to the conduct described in the Commission's Complaint in this action, unless and until such defendant is found not liable in all such civil suits and proof of the finding(s) is provided to the Distribution Agent prior to the Claims Bar Date;
 - d. Any Person who has been the subject of criminal charges related to the violations alleged in the Commission's Complaint in this action, unless and until such defendant is found not guilty in all such criminal cases and proof of the finding(s) is provided to the Distribution Agent prior to the Claims Bar Date;
 - e. Any Person who assigned their right to obtain a recovery in the Commission's action against Brantley Capital Management;
 - f. Any assignee of another Person's right to obtain a recovery in the Commission's Action against Brantley Capital Management, provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by inheritance or devise; or
 - g. The Distribution Agent, its employees, and those persons assisting the Distribution Agent in its respective role as the Distribution Agent.

IV. Allocation Among Eligible Claimants

9. The Distribution Agent shall allocate the Distribution Fund *pro rata* among Eligible Claimants according to each Eligible Claimant's Net Recognized Loss. The amount of the *pro rata* distribution to which an Eligible Claimant is entitled is the Authorized Payment. Distribution payments shall only be made to Eligible Claimants whose Authorized Payment equals or exceeds \$10.00.
10. An Eligible Claimant's Net Recognized Loss shall be determined by aggregating the Recognized Loss (or Gain) Per Share of all Brantley Securities purchased during the SEC Recovery Period as calculated under the Loss Formula set forth below. The Distribution Agent will not be aggregating an Eligible Claimant's accounts for purposes of determining the Net Recognized Loss.

V. Calculation of Net Recognized Losses

11. On June 28, 2005, Brantley announced inter alia, an investigation by the Commission, and Brantley's stock fell \$4.06 from \$10.31 on June 27, 2005 to \$6.25 on June 30, 2005. On October 24, 2005, Brantley announced, inter alia, that its Flight Options investment had no value, and Brantley's stock fell \$2.05 from a high of \$6.45 on October 24, 2005 to \$4.40 on October 26, 2005. The total of these drops, \$6.11, is the maximum loss that will be recognized for purposes of the Loss Formula.
12. An Eligible Claimant's Net Recognized Loss shall mean the amount determined as follows:
 - a. For all Claimants who purchased or acquired Brantley shares on or after March 31, 2003 and prior to June 28, 2005:
 1. If such shares were sold before the opening of trading on June 28, 2005, the Recognized Loss will be \$0.00.
 2. If such shares were sold on or after June 28, 2005, and prior to October 24, 2005, the Recognized Loss will be the lesser of:
 - i. The difference between purchase price and sale price, if such difference is positive; or
 - ii. \$4.06 per share.
 3. If such shares were still held as of the close of trading on October 24, 2005, the Recognized Loss will be the lesser of:
 - i. The difference between the purchase price and the closing price on October 26, 2005; or
 - ii. \$6.11 per share. (\$4.06 plus \$2.05).
 - b. For all Claimants who purchased or acquired Brantley shares on or after June 28, 2005:
 1. If such shares were sold before the opening of trading on October 24, 2005, the Recognized Loss will be \$0.00.
 2. If such shares were not sold prior to October 24, 2005, the Recognized Loss will be \$2.05 per share.
13. An Eligible Claimant will be eligible to receive a distribution from the Distribution Fund only if that Eligible Claimant had a net loss, after profits from transactions in Brantley Securities during the SEC Recovery Period are subtracted from all losses (the "Net Recognized Loss"). The proceeds from sales of shares that have been matched against shares held before the commencement of the SEC Recovery Period, however, will not be considered in the calculation of such Net Recognized Loss.
14. In no event shall an Eligible Claimant's Net Recognized Loss exceed the sum of the Eligible Claimant's purchase expenditure on Brantley shares less the proceeds received from the sale of those shares or the holding value of those shares if unsold, using the closing price of the shares as of October 24, 2005.

VI. Instructions for Obtaining and Filing a Proof of Claim Form

15. If you have been determined to be a Class Action SEC Authorized Claimant you do not need to file a Proof of 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 Proof of Claim Form from the Fair Fund website at www.secvbrantleyfairfund.com, or request that the Distribution Agent mail you a Proof of Claim Form by writing to the address below, sending an email to info@secvbrantleyfairfund.com, or by calling (877) 868-8230.

16. If you have not been determined to be a Class Action SEC Authorized Claimant, a Proof of Claim Form has been included with this notice. If you require additional forms, you may make copies of the enclosed Proof of Claim Form, download and print the Proof of Claim Form from the Fair Fund website at www.secvbrantleyfairfund.com, or request that the Distribution Agent mail you additional Proof of Claim Forms by writing to the address below, sending an email to info@secvbrantleyfairfund.com, or by calling (877) 868-8230.
17. Additional information regarding the Fair Fund may be found on the Distribution Fund's website at www.secvbrantleyfairfund.com. All inquiries concerning this Distribution Plan Notice and Proof of Claim Form should be made to the Distribution Agent in writing at the address below, sending an email to info@secvbrantleyfairfund.com, or by calling (877) 868-8230.
18. Please be sure to provide your complete name and mailing address on the Proof of Claim Form.
19. **All Proof of Claim Forms must be signed and submitted to the address provided below, postmarked no later than December 11, 2013. Claims postmarked after December 11, 2013 will not be eligible to participate in the distribution.**

**SEC v. Brantley Fair Fund
Distribution Agent
PO Box 4234
Portland, OR 97208-4234**

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

20. If you purchased Brantley Securities during the SEC Recovery Period of **March 31, 2003** through and including **October 24, 2005** for the beneficial interest of an individual or entity other than yourself, then within TEN (10) DAYS OF YOUR RECEIPT OF THIS NOTICE, you must either:
 - a. Provide to the Distribution Agent the name and last known address of each individual or entity for whom or which you purchased Brantley Securities during such time period; or
 - b. Request additional copies of this Distribution Plan Notice and Proof of Claim Form, and within 10 days, mail the Distribution Plan Notice and Proof of Claim Form to the beneficial owners of the Brantley Securities.
22. You are entitled to reimbursement for your reasonable expenses actually incurred in providing notice, provided an invoice is timely submitted to the Distribution Agent. All communications concerning the foregoing should be addressed to the Distribution Agent at the address below:

**SEC v. Brantley Fair Fund
Distribution Agent
PO Box 4234
Portland, OR 97208-4234
Phone: (877) 868-8230
Email: info@secvbrantleyfairfund.com**