

MILLER ENERGY RESOURCES, INC. FAIR FUND NOTICE TO PRELIMINARY CLAIMANTS

On August 6, 2015, the United States Securities and Exchange Commission (the “Commission”) instituted administrative proceedings against Miller Energy Resources, Inc., Paul W. Boyd, CPA, David M. Hall, and Carlton W. Vogt, III, CPA, for regulatory violations that occurred in 2010 to 2015, as described below. Currently, the Fair Fund is comprised of \$7,239,670.05, and any additional funds collected from the Respondents, pursuant to the Orders, will be added to the Fair Fund.

TO: Persons who purchased or otherwise acquired Miller Energy common stock (the “Securities”) during the period from March 22, 2010, through April 29, 2015, inclusive (the “Relevant Period”).

If you purchased or acquired Eligible Securities during the Relevant Period, you may be entitled to a recovery from the Miller Energy Resources, Inc. Fair Fund (hereinafter you will be referred to as a “Preliminary Claimant”). To be eligible to recover from the Miller Energy Resources, Inc. Fair Fund (the “Fair Fund”), you must submit a claim form with the required documentation identified below (“Claim Form”) either electronically at **Miller.FundAdministratorGBP.com** to Guidehouse, Inc., Baker & Hostetler LLP, and PACE Claims Services LLC (“GBP” or the “Fund Administrator”), or by U.S. First Class mail (or equivalent common carrier), **by October 21, 2024** (the “Claims Bar Date”).

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY. AMONG OTHER THINGS, FAILURE TO TIMELY SUBMIT A CLAIM PURSUANT TO THE DIRECTIONS BELOW MAY RESULT IN YOUR CLAIM BEING REJECTED.

I. OVERVIEW

The purpose of this Preliminary Claimant Notice (the “Plan Notice”) is to inform you that you may be entitled to a Distribution Payment from the Fair Fund described herein. Copies of this Notice are being mailed to all known Preliminary Claimants who purchased or acquired Eligible Securities during the Relevant Period. Copies of this Notice and instructions on how to file your Claim Form electronically are available on the Fair Fund’s website at **Miller.FundAdministratorGBP.com** and on the Information for Harmed Investors webpage hosted by the Commission at <https://www.sec.gov/enforcement/information-for-harmed-investors/miller-energy-resources-inc-et-al-kpmg-llp-et-al>. If you are a Preliminary Claimant, you must submit a Claim Form in accordance with the steps set forth in this Notice, and in the Plan of Distribution (the “Plan”), to be eligible to receive a Distribution Payment from the Fair Fund.

Please Note: Receipt of this Notice does not mean you are eligible to receive a Distribution Payment.

Note to Institutional Filers: **Institutional filers must submit Claim Forms using the electronic filing template.** The electronic filing requirements and file layout to upload claims and documents, can be found at **Miller.FundAdministratorGBP.com**, after you have registered to submit claims through the website. You may also email GBP at Support@FundAdministratorGBP.com. Any submission not in accordance with the required electronic filing format may be rejected. Proof of authority to submit a Claim Form must be submitted on behalf of every account for which a Claim Form is filed.

II. BACKGROUND

On August 6, 2015, the Commission instituted public administrative and cease-and-desist proceedings against Miller Energy, its former officer Boyd and Hall, and Vogt, the engagement partner at a now defunct independent audit firm who audited Miller Energy's financial statements for fiscal year 2010.¹ The Commission later resolved these proceedings by separate settled orders as to Miller Energy² on January 12, 2016, and as to Boyd³, Hall⁴, and Vogt⁵ on June 7, 2016.

In the Orders, the Commission found that the Miller Energy Respondents engaged in financial accounting and reporting fraud, as well as audit failures, related to the valuation of certain oil and gas assets in Alaska (the "Alaska Assets") acquired by Miller Energy. Miller Energy, an oil and gas company headquartered in Houston, Texas, purchased these assets for \$2.25 million in cash – along with the assumption of certain liabilities it valued at approximately \$2 million – during a competitive bid in a bankruptcy proceeding in December 2009. According to the Orders, Miller Energy subsequently reported those assets at an overstated value of \$480 million and recognized a one-time "bargain purchase" gain of \$277 million for its fiscal third quarter ended January 2010 and fiscal year ended April 2010.

The Commission found that Boyd, Miller Energy's Chief Financial Officer, failed to account for the acquisition in accordance with generally accepted accounting principles ("GAAP") which required Miller Energy to record the Alaska Assets at "fair value." The Commission also found that Boyd used a report containing expense numbers that were knowingly understated by Hall, Miller Energy's Chief Executive, and double counted \$110 million of certain fixed assets.

In addition, according to the Orders, Vogt, the lead engagement partner assigned to the audit of Miller Energy's financial statements for fiscal year 2010, failed to comply with the Public Company Accounting Oversight Board rules and standards in auditing Miller Energy's financial statements, including its accounting for the Alaska Assets. The Commission found that Vogt failed to exercise due professional care and skepticism by not adequately assessing whether Miller Energy's accounting treatment for the acquisition of the Alaska Assets complied with GAAP. Further, the Commission Orders show that Vogt failed to obtain sufficient competent evidential matter for management's assertions regarding the fair value of the Alaska Assets.

The Commission ordered Miller Energy to pay a civil penalty of \$5,000,000 which could be satisfied by the Commission having an allowed general unsecured claim in Class 4 of the Miller Energy's Joint Plan of Reorganization, Case No. 15-00236, pending in the United States Bankruptcy Court for the District of Alaska (the "Bankruptcy Case"), in the amount of \$5,000,000 or by Miller Energy making payments as directed over the course of three years, starting within five days of the termination of the Bankruptcy Case.

In their respective Orders, the Commission ordered Hall and Boyd to each pay a \$125,000 civil penalty to the Commission for transfer to the U.S. Treasury.

On January 28, 2016, the Bankruptcy Court entered an order in the Bankruptcy Case granting the Commission's allowed general unsecured claim in the amount of \$5,000,000. The Commission collected \$897,049.77 from the Miller Energy Bankruptcy. The Bankruptcy Trustee filed the final tax return for the Bankruptcy in September 2023.

¹ Order Instituting Proceedings, Securities Act Rel. No. 9881 (August 6, 2015).

² Order Making Findings and Imposing Penalties, Securities Act Rel. No. 10002 (January 12, 2016).

³ Order Making Findings and Imposing Penalties, Securities Act Rel. No. 10089 (June 7, 2016).

⁴ Order Making Findings and Imposing Penalties, Securities Act Rel. No. 10090 (June 7, 2016).

⁵ Order Making Findings and Imposing Penalties, Securities Act Rel. No. 10091 (June 7, 2016).

On August 15, 2017, in a related matter, the Commission instituted and simultaneously settled the KPMG AP against Miller Energy's successor auditor, KPMG, and engagement partner, Riordan, in connection improper professional conduct and securities violations related to an audit of Miller Energy's financial statements. In the KPMG Order, among other things, the Commission ordered KPMG to pay \$4,675,680 in disgorgement, \$558,319 in prejudgment interest, and a \$1,000,000 civil penalty, and Riordan to pay a \$25,000 civil penalty.

KPMG and Riordan have paid in full, and the Commission holds a total of \$6,258,999 in an interest-bearing account at the U.S. Treasury, pursuant to the KPMG Order.

On February 23, 2022, the Commission issued an order that created the Fair Fund⁶, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the funds collected, including any future funds collected in the Miller Energy AP, can be distributed to harmed investors. The Fair Fund consists of \$7,239,670.05, and any additional funds collected from the Respondents, pursuant to the Orders, will be added to the Fair Fund.

The Commission appointed Heffler, Radetich, & Saitta LLP as the Tax Administrator for the Fair Fund on August 31, 2022. The Commission appointed GBP as the Fund Administrator for the Fair Fund on September 29, 2022.

III. ELIGIBILITY CRITERIA AND ALLOCATION OF THE FAIR FUND

The Net Available Fair Fund shall be distributed to Claimants who submit Claim Forms to the Fund Administrator on or before the Claims Bar Date and are also determined by the Fund Administrator to be eligible for a Distribution Payment (the "Eligible Claimants").

The Fund Administrator will calculate each Eligible Claimant's Recognized Loss in accordance with the Plan of Allocation. All Eligible Claimants who are determined to receive a Distribution Payment will be deemed a Payee.

To qualify for a Distribution Payment from the Fair Fund, Claimants must satisfy the criteria used to calculate an Eligible Claim as set forth in the Plan of Allocation, which is available on the Fair Fund website as Exhibit A to the Plan.

You are excluded from participation in the Fair Fund if you are:

- a. The Respondents;
- b. Present or former officers or directors of Respondents or any assigns, creditors, heirs, distributees, spouses, parents, siblings, dependent children or controlled entities of any of the foregoing Persons or entities;
- c. Any employee or former employee of the Respondents or any of its affiliates who has been terminated for cause or has otherwise resigned, in connection with the conduct described in the Orders;
- d. Any Person who, as of the Claims Bar Date, has been the subject of any criminal charges related to the conduct described in the Order or any related Commission action;
- e. Any firm, trust, corporation, officer, or other entity in which Respondents have or had a controlling interest;
- f. The Fund Administrator, its employees, and those Persons assisting the Fund Administrator in its role as Fund Administrator; or
- g. Any purchaser or assignee of another Person's right to obtain a recovery from the Fair Fund for value; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance, or devise.

⁶ Order Establishing a Fair Fund, Exchange Act Rel. No. 94300 (February 23, 2022).

The Fund Administrator will distribute funds to the Eligible Claimants based upon a *pro rata* distribution formula. The Fund Administrator will determine each Eligible Claimant's *pro rata* share of the Fair Fund as the ratio of his, her, or its Recognized Loss to the sum of Recognized Losses of all Eligible Claimants.⁷

IV. HOW TO SUBMIT A CLAIM FORM AND REQUIRED DOCUMENTATION

Electronic Claim Forms are strongly encouraged for all Preliminary Claimants. Information on how to submit a Claim Form and detailed instructions on accessing the secure online Claims Portal can be found at **Miller.FundadministratorGBP.com**.

The deadline for submission of electronic Claim Forms is 11:59pm Eastern Time on October 21, 2024. All Claim Forms submitted by U.S. First Class mail (or equivalent common carrier), must be postmarked by October 21, 2024, and sent to the following address:

Miller Energy Fair Fund
c/o GBP/PACE, Fund Administrator
200 American Metro Blvd, Suite 129
Hamilton, NJ 08619

If you fail to timely submit a completed Claim Form, your claim may be rejected. The Claim Form must be accompanied by appropriate supporting documents for each transaction for which you submit a claim.

V. CLAIMS DETERMINATION

The Fund Administrator will provide a Claim Status Notice to each Preliminary Claimant that submitted a Claim Form, setting forth the Fund Administrator's eligibility determination of the claim (eligible, partially, or wholly deficient, or ineligible). In the event the claim is denied, in whole or in part, the Claim Status Notice will state the reason(s) for such denial. The Claim Status Notice will also notify the Preliminary Claimant of the opportunity to cure any deficiency, request reconsideration, or dispute the determination made by the Fund Administrator, and provide instructions regarding what is required to do so.

The Fund Administrator will send, as appropriate, a Final Determination Notice to any Preliminary Claimant who responds to the Claim Status Notice to cure a deficiency or dispute the determination made by the Fund Administrator, notifying the Preliminary Claimant of its determination. All determinations of the Fund Administrator that are made in accordance with the Plan shall be final and not subject to appeal.

VI. OTHER CLAIMS

Upon receipt and acceptance of a distribution from the Fair Fund, you shall be deemed to have released any claims you may have against the Fund Administrator and its agents. The submission of a Claim Form and the receipt and acceptance of a Distribution Payment by a Payee is not intended to be a release of a Payee's rights and claims against any other party, including, but not limited to, Miller Energy's past and present directors, officers, advisors and agents.

VII. CONTACT INFORMATION FOR THE FUND ADMINISTRATOR

Additional information regarding the Miller Energy Resources, Inc. Fair Fund may be found at **Miller.FundAdministratorGBP.com**, or by emailing **Support@FundAdministratorGBP.com**, or by calling the toll-free hotline at 833-410-9090. Please check the website frequently for updates.

⁷ Only Claimants whose Recognized Claim results in a payment of \$10.00 or more will receive a Distribution Payment.