

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

**Investment Advisers Act of 1940**  
**Release No. 1953 / July 20, 2001**

**Administrative Proceeding**  
**File No. 3-10232**

**In the Matter of FOUNDERS ASSET MANAGEMENT LLC AND BJORN K. BORGEN, Respondents.**

**ORDER APPROVING PLAN OF DISGORGEMENT DISTRIBUTION, APPOINTING ADMINISTRATOR AND DIRECTING DISTRIBUTION OF DISGORGEMENT FUND**

On January 24, 2001, the Commission published notice of the Division of Enforcement's ("Division") proposed Plan for the Distribution of Disgorged Funds (the "Plan") in this proceeding. The Plan proposed that \$505,000 disgorged by Bjorn K. Borgen ("Borgen") pursuant to the Commission's Order issued on June 15, 2000 be distributed pro rata among the clients whom the staff determined were financially harmed by the Respondents' conduct.

The Division has submitted its proposed Plan in which Amy J. Norwood, Assistant Regional Director, Central Regional Office, is designated as Administrator of the Plan. The Division has requested that the Commission approve the Plan, appoint Amy J. Norwood as Administrator of the Plan, and order the distribution of the disgorged funds pursuant to the Plan.

The Commission received only two comments on the Division's proposed Plan. One of the comments was received prior to publication of the proposed Plan and one comment was received in response to the publication of the Division's proposed Plan. Both comments were objections from Respondents' respective counsel as to certain wording included in the proposed Plan.

The counsel for Founders Asset Management LLC ("Founders") and Borgen both objected to the Plan on the ground that it contained the words "defrauded" and "fraudulent." Both proposed that the Plan be rewritten to take out those words. No other objection to the Plan was raised by either party.

Upon consideration of the comments received, the Commission finds that the Division's proposed Plan is fair and reasonable, and should be approved. See SEC v. Wang, 944 F.2d 80, 84 (2d Cir. 1991) (Court will approve plan if "fair and reasonable"); SEC v. Certain Unknown Purchasers, 817 F.2d 1018, 1020 (2d Cir. 1987) (the Commission has broad discretion in approving disgorgement distribution plans as a function of its equitable powers in remedying violations of the securities laws). The reasons for this finding are summarized as follows:

The Commission found in the Order Instituting Proceedings in this matter that Borgen willfully aided and abetted and caused violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (the "Advisers Act"). The Commission also found that Founders committed those violations. Sections 206(1) and 206(2) of the Advisers Act prohibit an investment adviser "from employing any device, scheme, or artifice to defraud any client or prospective client and from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." The Order Instituting Proceedings fully described misstatements and omissions made by Founders and Borgen which constituted violations of these antifraud provisions.

IT IS ORDERED that the Plan is approved; and

IT IS FURTHER ORDERED that Amy J. Norwood is appointed as Administrator of the Plan in accordance with the terms of the Plan; and

IT IS FURTHER ORDERED that the Office of the Comptroller shall make the following distribution amounts no later than the earlier of (i) 30 days after the expiration of the time for appealing this Order, or (ii) in the event this Order is appealed, 30 days after the final resolution of the appeal:

**Payee - Payment:**

Alpert, Eugene & Sanford \$16,315.14  
Altman, Gerald & Barbara \$1,237.88  
Arapahoe Cardio Group B \$5,397.58  
Astra Flooring Co. PFT \$9,453.47  
Boring, Don \$18,026.75  
Boring, Margie F. \$2,062.85  
Broekema Family TR. \$16,911.87  
Brooks, Dennis M.D. IRA \$17,544.25  
Bucherim Partnership \$16,898.53  
Cantor Empl. Comb. TR. \$4,012.61  
Caussey, Donald E & Gwen S \$10,268.03  
Colo. Chemical Co. PFT \$9,166.55  
Denver Int. Med. Assoc. \$10,289.45  
Ernemann, Beatrice Maresi \$123.18  
Fales, Craig & Pamela \$6,584.89  
Farver, Charles & Elizabeth \$2,347.20  
Ford, John W. (CP) \$10,390.39  
Gillberg, Christine C. \$123.47  
Glaser, Barbara \$12,105.90  
Goldfogel, Marvin Dr. \$9,570.21  
Goldfogel, Marvin H. Trust \$2,723.99  
Goodhard, Victor E. \$1,932.00  
Goralnik, Barry I.R.A. \$17,026.84  
Hackman, Carolyn \$3,950.18  
Hansen, Gary & Shirley \$235.23  
Hattler, Brack I.R.A. R/O \$11,213.73  
Hawkins Family Trust \$4,256.95  
Hay, Raymond A. IRA \$81.79  
Hensley Bat. & Elec. P/S \$7,856.31  
Hindman, D.D.S. Pft Shrg \$5,140.59  
Hirst & Applegate 401K \$115.62  
J & M Mac Allister Fndtn. \$167.71  
Jacobs, Michael S. \$9,713.02  
Kerstein, M.D. I.R.A. \$4,099.57  
Kerstein, M.D. Pft Shrg \$9,342.36  
Kintz, Richard L. I.R.A R/O \$3,516.57  
Kornfeld, Linda R. \$1,801.82  
Lillick & Charles \$1,891.53  
Livingston Family Trust \$2,445.60  
Louden, John G. I.R.A. R/O \$9,767.45  
Luther & Pedersen Ret Pln \$359.27  
Lynch Company \$2,403.52  
Mahoney, Dennis M. I.R.A. \$12,238.20  
Maresi, Phebe Cornell \$12,172.99  
Mayer, Martin I.R.A. R/O \$3,722.25  
Miller, Kenneth W. \$12,118.34  
Miller-Dwan Pension \$198.12  
Minn Elec Wrkrs Annuity \$2,108.49  
Minn Elec Wrkrs Pension \$1,077.22  
Minnkota Pwr Pens. PL. B. \$2,532.13  
Monaco Investments PFT \$8,578.78  
Perelmuter M.D. I.R.A. R/O \$2,570.60

Pozner, Hutt & Kaplan PFT \$2,190.28  
Price, David & Mary \$3,991.71  
Proptech, Inc. Pension Pl. \$7,714.75  
Rensenhouse, C. I.R.A. \$13,040.97  
Rifkin, William B. I.R.A. \$5,235.90  
Roderick, Judith S. \$96.49  
Roderick, Ronald & Judith \$2,788.25  
Rodger, Mary J. Trust \$3,003.07  
Rosenberg I.R.A. R/O \$7,737.69  
Ross, Michael & Patti \$941.34  
Samford University Pen. \$808.88  
Sanders, George T. PFT \$24,625.52  
Sanders, Norman I.R.A. R/O \$10,615.31  
Sanders, Norman & Marlene \$1,567.17  
Saturn Electric Pension \$6,088.89  
Saturn Electric Pft Shrg \$13,862.07  
Seavall, Michael \$954.47  
Smith, Richard L. I.R.A. \$13,310.55  
Sullivan, Charles A. \$821.44  
Sweeney, Patricia D. \$152.30  
Syncrotech Software Pft \$13,346.58  
Tricon Ind Brazing P/S \$1,536.22  
Tricon Ind Electro P/S \$5,476.78  
Warden Family Trust \$1,365.91  
Warden, Rex Wall. Jr. I.R.A. \$10,352.99  
Weisberg Crane Invest. \$1,776.99  
Welle, Richard K. I.R.A. \$7,314.65  
Wilson Blind Trust \$8,093.89

By the Commission.

Jonathan G. Katz  
Secretary