

PART III: CERTIFICATION

The undersigned represents and certifies UNDER PENALTY OF PERJURY that:

1. I am NOT:

- a) Any director or officer, or former director or officer, of the Defendant, or any of Defendant’s past or present Affiliates who served in such capacity during the Recovery Period and were directly involved in the conduct detailed in the Complaint;
- b) Any employee or former employee of Defendant or of any of its past or present Affiliates who has been terminated for cause, or has otherwise resigned, in connection with the conduct described in the Complaint or any related Commission action;
- c) Any defendant in any action brought by the Commission related to the conduct described in the Complaint or any related Commission action, unless and until such defendant is found not liable in all such civil suits prior to the Claims Bar Date, and proof of the finding(s) is included in such defendant’s timely filed Proof of Claim Form;
- d) Any Person who, as of the Claims Bar Date, has been the subject of criminal charges related to the violations alleged in the Complaint or any related Commission action, unless and until such Person is found not guilty prior to the Claims Bar Date, and proof of the finding(s) is included in such Person’s timely filed Proof of Claim Form;
- e) Any Affiliate, assign, creditor, heir, distributee, spouse, parent, child, or controlled entity of any of the foregoing Persons or entities described in (a)–(d) above;
- f) Any purchaser or assignee of another Person’s right to receive a distribution payment from the Disgorgement Fund, provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance, devise, or operation of law; and/or
- g) The Distribution Agent, its employee, or a Person assisting the Distribution Agent in its role as the Distribution Agent;

2. I understand that the Distribution Agent may require additional information from me in order to validate or pay my claim, and I agree to provide any information requested by the Distribution Agent for those purposes;

3. I agree that under no circumstances shall the Distribution Agent or its agents incur any liability to me or to any other Person if it makes a distribution in accordance with the list of all Eligible Claimants as approved by the Commission and that I am enjoined from taking any action in contravention of this provision;

4. If I am a custodian, trustee, or professional investing on behalf of and representing more than one claimant in a pooled investment fund or entity, I also attest that any distribution received will be allocated for the benefit of current or former pooled investors and not for the benefit of management; and

5. Under penalties of perjury, I certify that:

- (a) The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- (b) I am not subject to backup withholding because: (i) I am exempt from backup withholding; or (ii) I have not been notified by the Internal Revenue Service (“IRS”) that I am subject to backup withholding as a result of a failure to report all interest or dividends; or (iii) the IRS has notified me that I am no longer subject to backup withholding (NOTE: If you have been notified by the IRS that you are subject to backup withholding, you must cross out this item (b)); and
- (c) I am a U.S. citizen or other U.S. Person (including a U.S. resident alien); and
- (d) The Foreign Account Tax Compliance Act (“FATCA”) code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Note: If you are not a U.S. Citizen or other U.S. Person, you should cross out the box at line 5, above, and instead complete and submit IRS Form W-8BEN, W-8BEN-E, W-8ECI, or W-8IMY. You may download these forms from the IRS website: www.irs.gov/forms-instructions.

I (We) declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Note: The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

Executed this _____ day of _____, in _____, _____.
(Day) (Month/Year) (City) (State/Country)

Signature of Claimant

Date:

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MM DD YY

Print Name of Claimant

Signature of Joint Claimant, if any

Date:

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MM DD YY

Print Name of Joint Claimant, if any

PROOF OF CLAIM FORM INSTRUCTIONS

A. This Proof of Claim Form has been sent to you because you may be a Potentially Eligible Claimant in this matter. In order to participate, you must complete and sign this Proof of Claim Form and provide supporting documents for any eligible transactions you claim. If you fail to file a properly addressed Proof of Claim Form and supporting documents, your claim may be rejected, and you may be determined to be ineligible for any payment in this matter.

B. Submission of this Proof of Claim Form does not assure that you will share in the proceeds of the Distribution Fund created in this matter. Your share will depend on the number of Potentially Eligible Claimants filing eligible claims and will be subject to a \$10.00 Minimum Distribution Amount.

C. YOU MUST COMPLETE AND SUBMIT YOUR PROOF OF CLAIM FORM BY MAIL POSTMARKED ON OR BEFORE **JANUARY 2, 2019**, ADDRESSED TO THE DISTRIBUTION AGENT AS LISTED BELOW.

D. If you are NOT a Potentially Eligible Claimant, as defined in the Notice, DO NOT submit a Proof of Claim Form.

E. Use the section of this form entitled "Claimant Identification" to identify each owner of record. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S), OR THE LEGAL REPRESENTATIVE OF SUCH OWNER(S) OF SHARES UPON WHICH THIS CLAIM IS BASED.

F. Use the section of this form entitled "Schedule of Transactions" to supply all required details of your transaction(s). If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

G. Complete a separate Proof of Claim Form for each account that qualifies.

H. Provide all of the requested information with respect to the eligible shares that you acquired at any time during the Recovery Period, whether such transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

I. List each transaction in the Recovery Period in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day and year of each transaction you list.

J. Documentation of your transactions in America West Resources common stock must be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

K. The above requests are designed to provide the minimum amount of information necessary to process the simplest claims. The Distribution Agent may request additional information as required to efficiently and reliably calculate your losses. For a detailed explanation regarding how your losses will be calculated, please refer to the Plan of Allocation set forth in Exhibit A to the Distribution Plan, which can be found online at the website listed above.

Proof of Claim Forms must be postmarked no later than January 2, 2019, and mailed to SEC v. John Babikian Distribution Agent, P.O. Box 2995 Portland, OR 97208-2995.

ATTENTION NOMINEES AND BROKERAGE FIRMS: If you are filing claim(s) electronically on behalf of beneficial owners, detailed instructions are available on the website at www.SECvJohnBabikianFairFund.com along with the formatted electronic filing template. You may also send an email to info@SECvJohnBabikianFairFund.com requesting this information.

Reminder Checklist

1. Sign the Certification section of the Proof of Claim Form on page 4.
2. Remember to attach supporting documentation.
3. Do not send original documents.
4. Keep a copy of your Proof of Claim Form and all documents submitted, for your records.
5. If you desire an acknowledgment of receipt of your Proof of Claim Form, send your Proof of Claim Form by Certified Mail, Return Receipt Requested.
6. If you move, please send the Distribution Agent your new address.

ACCURATE CLAIMS PROCESSING CAN TAKE A SIGNIFICANT
AMOUNT OF TIME. THANK YOU FOR YOUR PATIENCE.