

BEFORE THE ARKANSAS SECURITIES COMMISSIONER
CASE NO. S-21-0015

ORDER NO. S-21-0015- 21-0201

IN THE MATTER OF:
ANCORA FUNDS – ANCORA/THELAN SMALL-MID CAP FUND

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ARKANSAS SECURITIES DEPT.

CONSENT ORDER

This Consent Order is entered pursuant to the Arkansas Securities Act (“Act”), codified at Ark. Code Ann. § 23-42-101 through § 23-42-509, the Rules of the Arkansas Securities Commissioner (“Rules”) promulgated under the Act, and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. § 25-15-101 through § 25-15-220, in accordance with an agreement by and between the Staff of the Arkansas Securities Department (“Staff”) and Ancora Funds – Ancora/Thelan Small-Mid Cap Fund (“Fund”) in full and final settlement of all claims that could be brought against the Fund by the Staff on the basis of the facts set forth herein.

The Fund admits the jurisdiction of the Act and the Arkansas Securities Commissioner (“Commissioner”), waives its right to a formal hearing, and without admitting or denying the findings of facts made herein, consents to the entry of this order and agrees to abide by its terms.

FINDINGS OF FACT

1. The Fund is an open-end mutual fund notice filing with the Arkansas Securities Department (“Department”) as a covered security issued by an investment company registered under the Investment Company Act of 1940 under section 18(b)(2) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(2).

2. The Fund's fiscal year end was December 31, 2020. The deadline to renew the Fund's notice filing with the Department was February 28, 2021.
3. The Fund filed a renewal notice filing with the Department on March 10, 2021.
4. No sales occurred during the Fund's lapse in filing with the Department.
5. The Fund has repeatedly failed to timely file its renewal notice filing. The Staff issued a Letter of Caution addressing the Fund's failure to timely file its renewal notice filing for the 2020 fiscal year. A copy of that Letter is attached hereto as Exhibit A.

CONCLUSIONS OF LAW

6. Ark. Code Ann. § 23-42-509(a)(1)(C) states the initial notice filing of an investment company, as defined in the Investment Company Act of 1940, shall be effective for a period commencing upon the commissioner's receipt of the notice filing, or, if not yet effective with the United States Securities and Exchange Commission, concurrently with the United States Securities and Exchange Commission effectiveness, and ending two (2) months after the investment company's fiscal year end. Thereafter, the investment company must renew the notice filing by submitting the appropriate forms and documents as filed with the United States Securities and Exchange Commission, along with the appropriate fee, calculated in the manner specified in subdivision (a)(1) of this section, with respect to the additional securities proposed to be offered, within two (2) months after the expiration of the registrant's fiscal year end.

7. In accordance with Rule 509.01(a)(2) a renewal notice filing for covered securities under Section 18(b)(2) of the Securities Act of 1933 shall contain the filing fee prescribed by § 23-42-509(a)(1) of the Act and Form NF. For issuers paying less than the maximum filing fee, a sales report of the amount of securities sold in this State during the

previous filing period shall be provided on Form NF. The sales report shall be provided no later than two (2) months after the issuer's fiscal year end.

8. The Fund violated Ark. Code Ann. § 23-42-509(a)(1)(C) and Rule 509.01(a)(2) by making its renewal notice filing over two (2) months after the expiration of the Fund's fiscal year end.

UNDERTAKINGS

In settlement of this matter, the Fund agrees to pay a fine in the amount of \$500.00

OPINION

This order is in the public interest. The facts as set out in paragraphs two and three support the violations of the Act and Rules of the Arkansas Securities Commissioner as set out in paragraph five.

ORDER

IT IS THEREFORE ORDERED that Ancora Funds – Ancora/Thelan Small-Mid Cap Fund pay a fine in the amount of \$500.00 to the Department upon entry of this order.

WITNESS MY HAND AND SEAL on this 15th day of September, 2021.



Eric P. Munson
Arkansas Securities Commissioner

APPROVED AS TO FORM AND CONTENT:

Gregory B. Gills
T/A of Ancora Funds

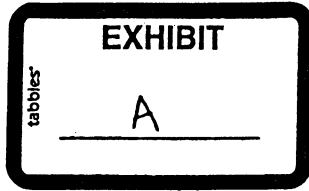
8/31/2021
Date

Aislinn Andrews
Aislinn Andrews
Staff Attorney
Arkansas Securities Department

9/15/2021
Date

ASA HUTCHINSON
GOVERNOR

ERIC MUNSON
COMMISSIONER



1 COMMERCE WAY, SUITE 402
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ARKANSAS SECURITIES DEPARTMENT

July 15, 2020

VIA ELECTRONIC MAIL

Daniel Barto
Mutual Shareholder Services, LLC
8000 Town Centre Drive Suite 400
Broadview Heights, OH 44147

Re: Letter of Caution S-20-0037-20-LC01
Arkansas Securities Department File No. 60037198
Ancora Funds – Ancora/Thelen Small-Cap Fund

Dear Mr. Barto:

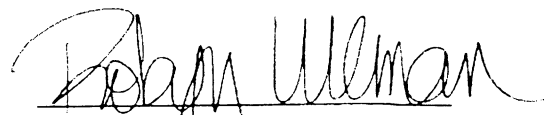
Ancora Funds – Ancora/Thelen Small-Cap Fund ("Issuer") filed a renewal notice filing with the Arkansas Securities Department effective from January 1, 2019 through December 31, 2019. On March 9, 2020, the Staff of the Arkansas Securities Department ("Staff") received a renewal notice filing on behalf of the Issuer. The fund was not properly covered from January 1, 2020 through March 9, 2020. In violation of Ark. Code Ann. § 23-42-509(a)(2) and Rule 509.01(a)(2), the Issuer failed to timely file the renewal notice with the Arkansas Securities Department concerning the sale of securities in Arkansas.

The Staff has decided not to pursue a formal enforcement action concerning this violation of the Arkansas Securities Act ("Act") and Rules at the present time. However, the Staff stresses that the timely filing of notices of renewal are essential and any future violations of the aforementioned sections or any other sections of the Act and/or Rules will not be treated as leniently by the Staff. Again, the Staff expects the Issuer and all of its employees to fully comply with all applicable provisions of the Act and/or Rules. Please return to the Staff a signed copy of this letter acknowledging your receipt hereof.

Sincerely,


AISLINN ANDREWS

Staff Attorney



Daniel Barto
Mutual Shareholder Services, LLC


DATE