

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THE LYNN M. KENNIS TRUST U/A)	
DTD 10/02/2002, BY LYNN M. KENNIS)	
AS TRUSTEE and THE RONALD J.)	
KENNIS TRUST, BY RONALD AND)	
DOLORES M. KENNIS AS TRUSTEES,)	
)	
Plaintiffs,)	
)	
v.)	Civ. No. 14-585-SLR/SRF
)	
FIRST EAGLE INVESTMENT)	
MANAGEMENT, LLC,)	
)	
Defendant.)	

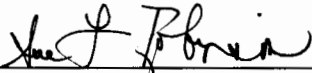
MEMORANDUM ORDER

At Wilmington this *5th* day of December, 2015, having conducted a de novo review of the well-reasoned Report and Recommendation issued by Magistrate Judge Sherry R. Fallon on October 8, 2015 (D.I. 34), as well as the responsive papers filed in connection therewith (D.I. 35, 37);

IT IS ORDERED that the Report and Recommendation ("the Report") is adopted, pursuant to 28 U.S.C. § 636(b), and defendant's objections to such are overruled. The court finds no error in Judge Fallon's determination that plaintiffs' complaint contains sufficiently specific factual allegations to meet Fed. R. Civ. P. 8's pleading requirements for a Section 36(b)¹ claim. *Jones v. Harris Associates L.P.*, 559 U.S. 335, 340-44 (2010); *Gartenberg v. Merrill Lynch Asset Mgmt., Inc.*, 694 F.2d 923, 928 (2d Cir. 1982). Defendant's sole assessment of error (in the Report) is that the

¹The Investment Company Act of 1940, 15 U.S.C. § 80a-1 *et seq.*

hypothetical amount of the sub-advisory fee does not give rise to an inference that the advisory fees paid by the funds are so disproportionately large that they bear no reasonable relationship to the services rendered. (D.I. 35) In response, plaintiffs assert that Judge Fallon was correct in rejecting defendant's attempt to shield itself from liability by hiding behind its non-disclosure of the actual fee rate it charges to the sub-advised fund. (D.I. 37) The court agrees. Judge Fallon correctly found that plaintiffs have provided a sufficient factual basis to estimate the fees based on publicly available information. See generally *In re Davis New York Venture Fund Fee Litigation*, 2015 WL 7301077 (S.D. N.Y. 2015); *In re Blackrock Mut. Funds Advisory Fee Litig.*, 2015 WL 1418848 (D. N.J. 2015); *Goodman v. J.P. Morgan Inv. Mgmt., Inc.*, 2015 WL 965665 (S.D. Ohio 2015).


United States District Judge