

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re J. EZRA MERKIN AND GABRIEL
CAPITAL CORP. LITIGATION

Consolidated Case
Master Docket No. 08 CV 10922 (DAB)
09 CV 2001 (DAB) (*Nephrology* Action)
09 CV 4407 (DAB) (*Finkelstein* Action)

**DECLARATION OF RUSSELL S. MINESS IN SUPPORT OF
NEPHROLOGY ASSOCIATES PC PENSION PLAN AND
JACOB E. FINKELSTEIN CGM IRA ROLLOVER CUSTODIAN'S
MOTION TO VACATE THE CONSOLIDATION ORDER AND TO
APPOINT JACOB E. FINKELSTEIN CGM IRA ROLLOVER CUSTODIAN
LEAD PLAINTIFF OVER THE ARIEL INVESTORS' CLAIMS**

RUSSELL S. MINESS, under penalty of perjury hereby declares:

1. I am an attorney at the law firm of Wolf Haldenstein Adler Freeman & Herz LLP.

I submit this Declaration in support of Nephrology Associates PC Pension Plan and Jacob E. Finkelstein CGM IRA Rollover Custodian's Motion to Vacate the Consolidation Order and to Appoint Jacob E. Finkelstein, CGM IRA Rollover Custodian Lead Plaintiff Over the Ariel Investors' Claims. The matters set forth herein are stated within my personal knowledge.

2. Attached hereto as Exhibit 1 is a true and correct copy of the press release published on *Business Wire* on May 7, 2009.

3. Attached hereto as Exhibit 2 is a true and correct copy of the certification of Jacob E. Finkelstein CGM IRA Rollover Custodian, executed on May 4, 2009.

4. Attached hereto as Exhibit 3 is a true and correct copy of the firm resume of Wolf Haldenstein Adler Freeman & Herz LLP.

Dated: June 6, 2009

/S/

Russell S. Miness, Esq.