

# **EXHIBIT L**

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

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PASHA ANWAR, *et al.*,  
Plaintiffs,  
v.  
FAIRFIELD GREENWICH LIMITED, *et al.*,  
Defendants.  
-----X

MASTER FILE NO. 09-CV-0118 (VM)

**DECLARATION OF DR. LAURENCE WIENER  
IN SUPPORT OF PLAINTIFFS’ MOTIONS FOR FINAL  
APPROVAL OF PARTIAL CLASS ACTION SETTLEMENT AND FOR AN  
AWARD OF ATTORNEYS’ FEES AND REIMBURSEMENT OF EXPENSES**

I, Dr. Laurence Wiener, declare, under penalty of perjury, as follows:

1. I am the sole trustee for the Pacific West Health Medical Center Employees Retirement Trust (the “Trust”), which is one of the court-appointed Lead Plaintiffs and a proposed class representative in this action. I make this Declaration in support of our motion for final approval of the proposed partial settlement with the FG Defendants, in an amount up to \$80.25 million, and in support of Lead Counsel’s<sup>1</sup> application for attorneys’ fees and reimbursement of expenses. I also make this Declaration in support of my own request for reimbursement of lost wages (in the form of lost business opportunities) in the amount of \$50,000.

2. I live in Los Angeles, California. I am a licensed chiropractor and an owner of the Pacific West Health Medical Center (“Pacific West”), a chiropractic and

<sup>1</sup> All undefined capitalized terms shall have the meanings assigned in the accompanying papers filed in support of the Settlement and Fee Application.

wellness facility providing physical therapy, chiropractic medicine, massage treatment and related services. Managing the practice and treating patients at Pacific West is my primary full-time business.

3. I am 62 years old and have approximately 20 years of experience in investments. Over the course of that time period I have invested in equities and options, debt instruments, currency and futures. I consider myself to be a careful and informed investor. I follow the financial markets actively.

4. The Trust was an investor in and I have been familiar with Fairfield Sentry Limited (“Sentry”) since 2007.

5. The Trust invested \$200,000 in Sentry on January 2, 2008.

6. The Trust did not redeem its investment in Sentry.

7. All told, the Trust lost the entire \$200,000 principal it invested in Sentry.

I consider that a very significant loss.

8. On December 11, 2008, it was reported that Bernard L. Madoff (“Madoff”) was arrested for perpetrating a Ponzi scheme. I shortly thereafter became aware that the overwhelming majority of Sentry’s assets were invested with Madoff, resulting in a near total loss of the Trust’s investment in the fund. When I learned that there were potential claims to recover the Trust’s investment, I researched counsel who had experience and knowledge on these issues. I then sought the advice of and ultimately

retained counsel to prosecute the securities litigation on my behalf and on behalf of a class of similarly-situated investors in Sentry and related funds.

9. I caused the Trust to file a complaint on January 8, 2009 that was subsequently consolidated into this Action by an Order of this Court on January 30, 2009. After discussing my concerns about the FG Defendants' possible secretion or dissipation of assets with the law firm the Trust had retained (Wolf Popper LLP), on January 9, 2009, we moved for a temporary restraining order, preliminary injunction, and related relief seeking to preserve and restrict the dissipation of the FG Defendants' assets (the "PI Motion"). This Court heard argument on the PI Motion on January 15, 2009 and ultimately denied our request but it is my understanding that the Court told counsel for the FG Defendants to instruct their clients not to hide or otherwise dissipate their assets to avoid any potential judgment in the litigation.

10. The Court's January 30, 2009 Order also designated Plaintiffs' Lead Counsel as interim Co-Lead Counsel pursuant to Fed. R. Civ. P. 23(g).

11. On May 11, 2009, the Trust, and several other investors, filed a motion to be appointed lead plaintiffs and on July 7, 2009, this Court appointed the Trust and four other plaintiffs, including three of the current proposed class representatives, as Lead Plaintiffs pursuant to the Securities Exchange Act of 1934. The Court also approved Lead Plaintiffs' selection of the Plaintiffs' Lead Counsel firms.

12. As trustee of the Trust, and in fulfillment of its responsibilities as a Lead Plaintiff, I have been actively involved in this case, including by monitoring the litigation closely from the outset. My efforts in that regard include, but are not limited to the following:

- a. I have actively consulted with and made inquiries of counsel from the inception of the litigation and at each stage of the case, as further described below. Those consultations included numerous telephone calls, e-mail correspondence and in-person meetings in both Los Angeles and New York;
- b. I reviewed the initial complaint and PI Motion filed by the Trust;
- c. I reviewed the lead plaintiff motion filed on behalf of the Trust and submitted a certification in support of that motion;
- d. I reviewed both of the subsequent consolidated amended complaints;
- e. I reviewed the briefing in opposition to the motions to dismiss the Seconded Consolidated Amended Complaint and the decisions denying, in substantial part, the motions to dismiss;
- f. I worked with counsel to respond to the defendants' interrogatories and document requests and reviewed those responses thoroughly;
- g. I spent extensive time searching for and producing both electronic and paper documents in response to the defendants' discovery requests. I also spent significant time reviewing these documents and discussing them with my counsel;
- h. I reviewed the motion for class certification and briefs filed in support of that motion. I also submitted a declaration in support of that motion;
- i. I spent extensive time preparing for my deposition by the defendants, including speaking to and meeting with counsel;

- j. In July 2011, I traveled to New York from Los Angeles and gave a seven and a half hour deposition in support of the Plaintiffs claims and motion for class certification; and
- k. I have consulted with counsel concerning the progress of Plaintiffs' discovery, the prospects for the case and the potential for settlement with any of the defendants.

13. As a result of the foregoing activities I was well-informed and well aware of the strengths and weaknesses of our claims against the FG Defendants, as well as the risks of prosecuting those claims through trial and appeal.

14. During 2012 I communicated with counsel by telephone and email concerning the potential partial settlement of this matter. In particular, we discussed the potential difficulty of obtaining substantially greater amounts from the FG Defendants and the possible dissipation or unavailability of their assets.

15. After careful consideration and deliberation, I authorized counsel to settle this action for \$80.25 million. The proposed Settlement is a very strong recovery for the class under the circumstances. It provides immediate compensation to class members and avoids the risk of no recovery at all.

16. Counsel have explained to me that the Plan of Allocation seeks to allocate the settlement fund on a *pro rata* basis based on the net principal invested and lost by each class member. I believe that the Plan of Allocation is fair and reasonable and should be approved.

17. In determining the fairness of counsel's fee in this action, I considered the quality of Lead Counsel's representation of the class; the size of the recovery on behalf of

the class; the difficult, complex and novel issues presented by the litigation, the enormous amount of time and effort devoted to the litigation by counsel with no guarantee of payment; and the advancing of costs in excess of \$1.4 million on a contingent basis. Based on my consideration of these factors, I support Lead Counsel's current fee request of 25% of the \$50.25 million non-contingent Settlement Fund and for reimbursement of expenses.

18. This action involved both federal securities claims and state common law claims. I am informed that the Private Securities Litigation Reform Act of 1995 provides for the reimbursement of costs and expenses (including lost wages) incurred or otherwise absorbed by a lead plaintiff in connection with services rendered in the litigation. I further understand that state law allows for the payment of incentive awards to encourage aggrieved persons, such as me, to act as class representative plaintiffs.

19. I conservatively estimate that over the past four years, I have devoted approximately 185 hours of time to this litigation, including time spent as follows:

- a. At the inception of the litigation discussing material facts with counsel and gaining an understanding of the risks and benefits of participating in the litigation. I also spent a significant amount of time, including while traveling abroad in China, to locate and provide transactional and other documents reflecting the Trust's purchase of Sentry. I also located and provided to my counsel marketing and other information that I had downloaded from FGG's website in connection with making the investment in Sentry. Finally, I spent time reviewing the initial complaint, PI Motion, consolidation motion, lead plaintiff motion, my

certification and discussed and corresponded with counsel concerning these actions. I estimate that I spent approximately 40 hours on these tasks;

- b. I reviewed the First and Second Consolidated Amended Complaints filed in this action and discussed those complaints with counsel. I again looked for and provided certain documents related to the Trust's investment in Sentry. I estimate that I spent approximately 15 hours on these tasks;
- c. I reviewed and discussed with counsel defendants' motions to dismiss the Second Consolidated Amended Complaint, and our opposition to those motions. I estimate that I spent approximately five hours on these tasks;
- d. I reviewed the decisions on the motions to dismiss and discussed the implications of those decisions with counsel. I estimate that I spent approximately five hours on those tasks;
- e. I participated in the preparation of the class certification motion, including discussions and correspondence with counsel concerning the preparation and review of the declaration I submitted in support of that motion. In connection with the certification I submitted, I reviewed documents and discussed them with counsel. I estimate that I spent approximately 10 hours on these tasks;
- f. I spent a significant amount of time responding to defendants' discovery requests, discussing, searching for and producing



documents, including meeting with and providing access to an e-discovery consultant who searched my computers and email accounts.

I estimate that I spent approximately 45 hours on these tasks;

- g. Traveling to New York, preparing for and submitting to deposition. I estimate that I spent approximately 40 hours on these tasks;
- h. I consulted and corresponded with counsel concerning merits discovery and the progress of the litigation numerous times during 2011 and 2012. I estimate that I spent approximately 10 hours on this; and
- i. Reviewing document and other information, corresponding and discussing with counsel the settlement negotiations, proposals, settlement terms and procedural aspects of the settlement, including the motions and complaint filed by the BLMIS Trustee to enjoin the Settlement and our claims against the FG Defendants. I estimate that I spent approximately 15 hours on these tasks.

20. Based on my own records, travel itinerary, email and other correspondence, 185 hours is a very conservative estimate of the time I spent on this matter to date. That time, if not for this litigation, could have been devoted to income producing activities at Pacific West. I also lost three full days of work when I traveled to New York for my deposition. In the above estimates I am only including the time that I actively spent reviewing documents, meeting with counsel and at the actual deposition.

21. I conservatively estimate that the value of my professional time is \$500 an hour. As an owner of Pacific West I participate directly in the profits of the practice and

gain the benefit of my own time with patients and also the leverage of revenue generated through the time I spend managing the practice and supervising other employees of Pacific West.

22. I can see approximately three patients per hour and charge each patient or their insurer approximately \$200 per visit. Due to the value accrued from these patient visits, my experience and contacts, management of other employees working under my supervision, some of whom see patients contemporaneously, I believe \$500/hour would be a reasonable hourly rate for my compensation in this matter. Assuming that I were to be compensated at that hourly rate for 185 hours, I would be entitled to an award of \$92,500.

23. Given the foregoing, I consider that \$50,000 is a fair reimbursement for my activities on behalf of the Class and represents a significant discount to the amount of lost wages and lost business opportunities I have foregone during the many hours I spent on this litigation as a class representative and plaintiff over the past four years.

24. Accordingly, I respectfully request that the \$80.25 million cash settlement be approved as fair, reasonable and adequate to the Class, that counsel be awarded their requested fees and expenses, that the Plan of Allocation be approved, and that I be awarded \$50,000 as reimbursement for my lost wages incurred as a result of my representation of the Class and as an incentive award for my efforts in this Action.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 29 day of January, 2013 at Los Angeles, California.



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Dr. Laurence Wiener