

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

PASHA S. ANWAR, et al.,

Plaintiffs,

v.

FAIRFIELD GREENWICH LIMITED, *et al.*,

Defendants.

Master File No. 09-cv-0118 (VM)

This Document Relates To: 09-cv-118 (VM)

**DECLARATION OF ROBERT C. FINKEL IN SUPPORT OF CLASS PLAINTIFFS’
MOTION FOR DISTRIBUTION OF THE GLOBEOP NET SETTLEMENT FUND**

Robert C. Finkel, being duly admitted to the practice of law in the State of New York, does hereby declare under the penalties of perjury:

1. I am a member of the law firm of Wolf Popper LLP, which together with the law firms of Boies, Schiller & Flexner LLP and Lovell Stewart Halebian Jacobson LLP, are Co-Lead Counsel for the GlobeOp Settlement Class in this Action.

2. I make this Declaration in support of Class Plaintiffs’ Motion for Distribution of the GlobeOp Net Settlement Fund.

3. I have reviewed the accompanying Declaration of Katherine Lloyd, Client Services Director of Rust Consulting, Inc. (“Rust”) and the exhibits thereto (“Lloyd Decl.”). Rust is the Claims Administrator appointed by the Court for the GlobeOp Settlement. Based on my review of these materials and frequent consultations with Rust in the course of its processing of GlobeOp claims, I concur in the determinations and calculations set forth in the Lloyd Declaration. I also have reviewed Rust’s prior and current invoices for fees and expenses and attest that they are appropriate and consistent with the prior orders of this Court.

4. Counsel for the Citco, PwC and GlobeOp Defendants have advised me that their clients take no position regarding Class Plaintiffs' Motion. However, counsel for certain of the FG Defendants have advised that they "may object to the distribution motion or support an objection by" family members of two of the FG Individual Defendants to "the definition of 'immediate family members' utilized by Rust and plaintiffs' counsel" as described in paragraphs 9 and 10 below.

REJECTION OF CLAIMS

5. Rust received 108 Proof of Claim forms submitted in response to the Court-approved Class Notice and Proof of Claim form mailed to potential members of the GlobeOp Settlement Class. Lloyd Decl., ¶ 7.

6. Rust determined that claimants filing 71 of those claim forms were ineligible to participate in the GlobeOp Settlement. *Id.* ¶¶ 9-10, Exh. B.

7. The Notices of Rejection mailed by Rust specifically advised claimants that they had the right to contest the rejection of their claim. *See* Exhibit A to Lloyd Decl. (copy of the form of letters used to notify Class Members of rejection of claims). No person whose claim was rejected has requested further review of their claim.

8. Plaintiffs' Co-Lead Counsel respectfully recommend that the Court approve the rejection of the claims identified in Exhibit B of the Lloyd Declaration.

9. Plaintiffs' Co-Lead Counsel directed Rust to reject the GlobeOp claim filed by the brother in-law and an "immediate family member" of an individual FG Defendant. See SEC regulations at 17 C.F.R. §229.404, Instructions, and 17 C.F.R. 240.16a-1 (defining the term "immediate family" to "mean any child, stepchild, grandchild, parent, stepparent, grandparent,

spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships.”). An individualized Notice of Rejection dated April 25, 2014 was mailed to that claimant, to which he has not responded.

10. Plaintiffs’ Co-Lead Counsel further directed Rust not to mail a GlobeOp Proof of Claim form to the mother of an individual FG Defendant, because we determined she is excluded from the Settlement Class as an “immediate family member.” We advised counsel for that individual FG Defendant and lead counsel for the FG defendants, through email correspondence in March 2014 and thereafter, of Co-Lead Counsel’s position on exclusion of this person from the Settlement Class.

ACCEPTANCE OF CLAIMS

11. Rust determined that 37 of the Proofs of Claim were appropriate for inclusion in the GlobeOp Settlement as Authorized Claimants. *See* Lloyd Decl., ¶¶ 11-12. The Recognized Losses of these Authorized Claimants aggregate to \$38,461,421, and the Authorized Claimants are identified on Exhibit C of the Lloyd Declaration. Two late claims were filed in February 2014 (Claim Nos. 3387 and 3388). *See* Lloyd Decl. ¶ 13. Those claims were filed within two months of the last date for receipt of claims on December 23, 2013, are moderate in amount (less than 2% of the aggregate value of all claims), and did not prejudice the administration of the GlobeOp Settlement. Plaintiffs’ Co-Lead Counsel recommend the acceptance of these late claims.

12. Plaintiffs’ Co-Lead Counsel respectfully recommend that the Court approve the acceptance of all claims listed on Exhibit C of the Lloyd Declaration.

DISTRIBUTION OF THE NET SETTLEMENT FUND

13. As described in the Lloyd Declaration, Rust is prepared, upon order of the Court, to distribute the Net Settlement Fund to the Authorized Claimants. We have reviewed the procedures described by Rust for the distribution of the Net Settlement Fund (Lloyd Decl., ¶ 20) and concur as to their appropriateness and consistency with the prior orders of the Court.

14. As stated in the Lloyd Declaration, the Net Settlement Fund currently contains \$3,692,215. Pursuant to the Notice and Plan of Allocation sent to the Class, if the Court accepts the recommendations of Class Counsel to approve the Authorized Claimants as requested herein having Recognized Losses totaling \$38,461,421, each Authorized Claimant will receive a pro rata share of the Net Settlement Fund equivalent to approximately 9.6% of the Settlement Class Member's Recognized Loss.

15. Rust has estimated that the Recognized Loss of the immediate family members referenced in paragraphs 9 and 10, if their claims were ordered to be accepted by the Court, would be approximately \$80,000 and \$336,000, respectively, which given the 9.6% estimated proration of the Net Settlement Fund would result in a further dilution of recovery by Authorized Claimants and a recovery by these disputed claimants of approximately \$7,680 and \$32,280, respectively. Lead Counsel submit that (i) as a matter of definition of the term "immediate family members" in the SEC regulations (quoted supra, paragraph 9) and (ii) equity, that immediate family members of settling defendants accused of securities and common law fraud should not draw a benefit from the Net Settlement Fund. Accordingly, any objections filed by or on behalf of these excluded claimants should be firmly rejected.

CONCLUSION

16. For the foregoing reasons, Plaintiffs' Co-Lead Counsel respectfully move that this Court enter an Order:

- (a) directing distribution of the GlobeOp Net Settlement Fund to the Authorized Claimants as listed on Exhibit C to the Lloyd Declaration;
- (b) approving rejection of the 71 ineligible claims listed on Exhibit B to the Lloyd Declaration and barring acceptance of any additional late claims submitted in the future;
- (c) authorizing payment from the GlobeOp Net Settlement Fund to Rust of \$7,901.28 for fees and costs incurred in connection with administering GlobeOp Settlement Fund from December 1, 2013 through May 31, 2014; and
- (d) authorizing a reserve of \$8,809.00 for payment of Rust's anticipated further fees and expenses and for future tax preparation services including the necessary tax returns.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 1st day of August, 2014.


ROBERT C. FINKEL