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April 27, 2015

By Hand

The Honorable Victor Marrero
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, N.Y. 10007-1312

Anwar, et al. v. Fairfield Greenwich Limited, et al.,
No. 09-cv-118 (S.D.N.Y.) (VM) (FM)

Dear Judge Marrero:

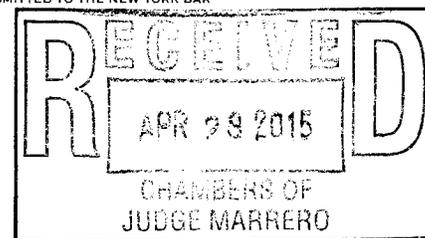
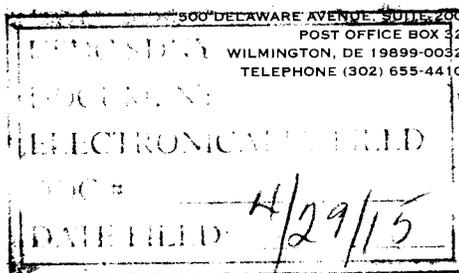
We represent the Citco Defendants. We write on behalf of the Citco Defendants, defendant PricewaterhouseCoopers LLP, and defendant PricewaterhouseCoopers Accountants, N.V. (collectively, the "*Anwar* Defendants") to request a pre-motion conference. The *Anwar* Defendants' contemplated motions will seek the dismissal of plaintiffs' common-law claims as precluded by the Securities Litigation Uniform Standards Act of 1998 ("SLUSA") in light of the Second Circuit's decision last week in *In re Kingate Management Ltd. Litigation*, __ F.3d __, 2015 WL 1839874 (2d Cir. Apr. 23, 2015). *Kingate*, like this case, involved claims by investors in so-called Madoff "feeder funds."

This Court previously ruled, on motions to dismiss, that SLUSA did not preclude plaintiffs' common-law claims because those claims did not allege conduct "in

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The Honorable Victor Marrero

connection with the purchase or sale of a covered security.” *Anwar v. Fairfield Greenwich Ltd.*, 728 F. Supp. 2d 372, 398 (S.D.N.Y. 2010) (quoting 15 U.S.C. § 78bb(f)(1)(A)). Since this Court’s ruling, the Supreme Court and the Second Circuit have issued several significant decisions interpreting SLUSA. Those decisions, we respectfully submit, establish that this Court’s prior ruling is no longer correct. *Chadbourne & Parke LLP v. Troice*, 134 S. Ct. 1058 (2014); *In re Kingate Mgmt. Ltd. Litig.*, ___ F.3d ___, 2015 WL 1839874; *In re Herald, Primeo & Thema Sec. Litig.*, 730 F.3d 112 (2d Cir. 2013) *reh’g denied*, 753 F.3d 110 (2d Cir. 2014), *cert. denied*, No. 14-730, ___ S. Ct. ___, 2015 WL 1400872 (Mar. 30, 2015).

In particular, in *Kingate*, 2015 WL 1839874, at *10, the Second Circuit has now held that SLUSA’s “in connection with” requirement is met where plaintiffs “purchased the uncovered shares of the offshore [so-called Madoff feeder] Funds, expecting that the Funds were investing the proceeds in S&P 100 stock, which are covered securities.”

The *Anwar* Defendants accordingly intend to file motions explaining why these recent decisions compel a finding that SLUSA precludes plaintiffs’ remaining common-law claims against both the Citco and PwC Defendants. We believe that this important issue requires full briefing by the parties. In prior correspondence to the Court, plaintiffs have agreed, stating that “full briefing . . . would enable all parties . . . to address comprehensively the multiple recent decisions of the Supreme Court, the Second Circuit, and other District Judges that may bear on the issue.” (*Anwar* Pls.’ Ltr. 1, June 19, 2014, ECF No. 1282.) We are prepared to file our papers within thirty days so that this Court may address this important issue as soon as possible.

We are prepared to discuss these motions with the Court during a telephonic conference at the Court’s earliest convenience.

Respectfully submitted,

Andrew Gordon 

Andrew Gordon

cc: All counsel in *Anwar* (by e-mail)

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by *the Citco Defendants*.
SO ORDERED.
4-28-15
DATE  VICTOR MARRERO, U.S.D.J.