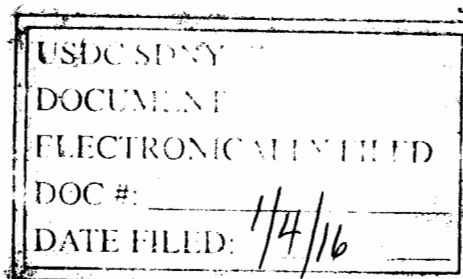


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December 31, 2015

By Facsimile

Honorable Victor Marrero,
 United States District Judge,
 Southern District of New York,
 Daniel Patrick Moynihan U.S. Courthouse,
 500 Pearl Street,
 New York, New York 10007.

Re: *Anwar v. Fairfield Greenwich Ltd.* – No. 09-cv-118 (VM)(FM) –
Barbachano v. Standard Chartered Bank International (Americas)
Ltd. et al., No. 11-CV-3553

Dear Judge Marrero:

We write on behalf of Standard Chartered Bank International (Americas) Ltd. and Standard Chartered PLC (together, “SCB”) in response to plaintiff Theresa Barbachano’s December 30, 2015 letter to the Court. Ms. Barbachano does not dispute that her proposed Third Amended Complaint contains claims dismissed by this Court years ago. Rather, she states that it was not her “intent to suggest that merely filing the [proposed] Third Amended Complaint” would serve to reinstate any previously dismissed claims, and that the already dismissed claims are repleaded in order to preserve the issues for appeal. However, the Second Circuit does not require a plaintiff “to replead a dismissed claim in order to preserve the right to appeal the dismissal when the court has not granted leave to amend.” *P. Stolz Family Partnership L.P. v. Daum*, 355 F.3d 92, 96 (2d Cir. 2004) (citations omitted).¹ Accordingly, there is no reason to allow Ms. Barbachano to file an amended pleading containing dismissed claims. Should the Court

¹ The same rule would apply in the Eleventh Circuit, where Ms. Barbachano’s case will be remanded by the Judicial Panel on Multidistrict Litigation. *Dunn v. Air Line Pilots Ass’n*, 193 F.3d 1185, 1191 n.5 (11th Cir. 1999) (“we do not require a party to replead a claim following a dismissal under Rule 12(b)(6) to preserve objections to the dismissal on appeal” (citations omitted)).

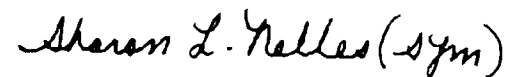
Honorable Victor Marrero

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allow the proposed Third Amended Complaint to be filed, SCB respectfully requests that the Court also enter an order dismissing, for the reasons set forth by the Court in its prior orders: (i) Counts I, III and V in their entirety; (ii) breach of fiduciary duty and gross negligence claims based on alleged misrepresentations or omissions in connection with Ms. Barbachano's purchases of Fairfield Sentry Ltd in Counts II and IV; and (iii) breach of fiduciary duty and gross negligence claims based on an alleged failure to render suitable investment advice with respect to investments in her portfolio in Counts II and IV.


Further, Ms. Barbachano's request that the Court enter partial final judgment on claims the Court dismissed years ago should be rejected. Courts in this District have recognized that entry of partial final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure is an extraordinary measure "reserved for 'the infrequent harsh case' where . . . dangers of hardship or injustice exist." *In re Citigroup Pension Plan Erisa Litig.*, No. 05-cv-5296, 2007 WL 1074912, at *2 (S.D.N.Y. Apr. 4, 2007) ("[R]espect for the historic federal policy against piecemeal appeals requires that a Rule 54(b) certification not be granted routinely." The power should be 'exercised sparingly,' and reserved for 'the infrequent harsh case' where the aforementioned dangers of hardship or injustice exist." (footnotes omitted)). Ms. Barbachano's mere "wish to seek review of the Court's prior orders" issued years ago, (Dec. 30, 2015 Letter at 2), does not warrant the granting of such extraordinary relief.

Respectfully submitted,



Sharon L. Nelles

cc: H. Eugene Lindsey, counsel for Ms. Barbachano

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by <i>Standard Chartered Defendants</i>	
SO ORDERED.	
<i>1-4-16</i> DATE	 VICTOR MARRERO, U.S.D.J.