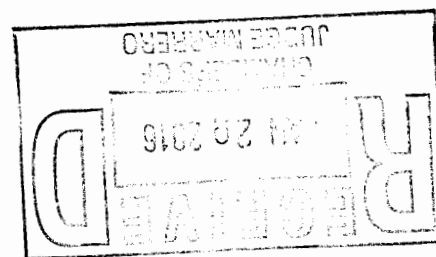


KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

300 North LaSalle Street
Chicago, Illinois 60654

(312) 862-2000

www.kirkland.com



Timothy A. Duffy, P.C.
To Call Writer Directly:
(312) 862-2445
tim.duffy@kirkland.com

Facsimile:
(312) 862-2200

January 28, 2016

VIA FAX

Judge Victor Marrero
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Anwar, et al. v. Fairfield Greenwich Limited, et al.*
Master File No. 09-CV-00118 (VM) (FM)

Dear Judge Marrero:

I write on behalf of my client, PricewaterhouseCoopers LLP ("PwC Canada"), and defendant PricewaterhouseCoopers Accountants N.V. ("PwC Netherlands") (collectively, the "PwC Defendants") at the direction of the Court in response to Mr. Wallner's letter of January 25, 2016, seeking a pre-motion conference regarding a proposed motion by the New Greenwich Litigation Trustee ("the Trustee") to intervene for purposes of objecting to the proposed settlement of the plaintiffs' claims against the PwC Defendants. The Trustee's objections are without merit, and the Court should deny the Trustee's request to intervene.¹

As an initial matter, the Trustee's claims against the PwC Defendants have been dismissed, and as the Court has already concluded, any prospect of reinstatement as a result of a pending appeal and prosecution to judgment remains "speculative." Decision and Order, Dkt. # 1413, at 6 (Sept. 15, 2015). Moreover, as also previously established by the Court, the Trustee does not have standing to object to the settlement. *Id.* As with the prior settlements in this litigation, the Trustee has not identified anything in the PwC settlement that prejudices any claims or defenses the Trustee may have in any proceeding. Indeed, as before, the Settlement Agreement and the Proposed Final Order both make it clear, the Trustee is losing no rights as a result of the settlement. Paragraph 19 of the Settlement Agreement provides:

19. Nothing in this Stipulation ... shall release, waive, bar or otherwise affect any claims asserted or which may be asserted by the Funds, Trustees or

¹ The PwC Defendants agree with and join in the arguments made by Plaintiffs in response to the Trustee's request.

KIRKLAND & ELLIS LLP

January 28, 2016

Page 2

Liquidators for the Funds, or the Released Parties, in the proceedings entitled (i) *New Greenwich Litigation Trust, LLC, as Successor Trustee of Greenwich Sentry, L.P. Litigation Trust v. Citco Fund Services (Europe) BV, et al.*, New York County Clerk's Index No. 600469/2009 [or] (ii) *New Greenwich Litigation Trust, LLC, as Successor Trustee of Greenwich Sentry Partners, L.P. Litigation Trust v. Citco Fund Services (Europe) BV, et al.*, New York County Clerk's Index No. 600498/2009 ... ; provided, however, that to the extent that any such claims have been or may be asserted, nothing in this Stipulation shall prevent the Released Parties from asserting any defenses or raising any argument as to liability or damages with respect to such claims or, with the exception of the provisions of ¶ 4, prevent the Released Parties from asserting any rights, remedies or claims against the Funds, or Trustees or Liquidators for the Funds, or in the above-referenced litigations.

Paragraph 16 in the settling parties' Proposed Final Order contains the same language. See Exhibit B to the Settlement Agreement. Paragraph 4 of the Settlement Agreement (referred to in both Paragraph 19 of the agreement and Paragraph 16 of the Order, provides:

4. Subject to the conditions set forth herein, the PwC Defendants agree to waive, and by operation of the Final Judgment shall have waived all rights to seek recovery on claims for contribution or indemnity that they hold or may hold against the Funds or any party indemnified by the Funds, the FG Defendants, GlobeOp, and the Citco Defendants for any expenses incurred or amounts paid in settlement or otherwise in connection with the Action. Nothing in this provision precludes the PwC Defendants from arguing that the settlement proceeds in this case are an offset against claims that may be made against them in other proceedings.

The bottom line is that all claims and defenses in other proceedings, except any claim by the PwC Defendants to attempt to recover the *Anwar* settlement payment or expenses, are expressly preserved. Thus there can be no possible prejudice to the Trustee as a result of the settlement.

Ignoring this absence of prejudice, the Trustee's first objection is that the Settlement Agreement is "void and unenforceable" because it was not signed by PricewaterhouseCoopers International Ltd. ("PwC IL"). It is neither improper nor unusual for a class action settlement agreement to release or bar claims against parties or non-parties who are not signatories to a settlement agreement and to provide that they will be bound by orders relating to the settlement. Here the settling parties negotiated releases that extend to a number of affiliated entities and

KIRKLAND & ELLIS LLP

January 28, 2016

Page 3

individuals beyond the signing parties, including PwC IL. The Trustee's objection is entirely without merit.

The Trustee's second objection is to the Settlement Agreement's acknowledgment that it does not preclude the PwC Defendants from arguing that the settlement consideration be used to offset claims in other proceedings. As explained in prior submissions in connection with the earlier settlements, the effect of the PwC Defendants' settlement payment on other claims or judgments is a matter for determination *in those proceedings*, not this one, and neither the Settlement Agreement nor the Proposed Final Order in any way pre-judges that issue. The documents simply, and appropriately, make it clear to class members that the PwC Defendants may argue in other proceedings that the settlement consideration they are paying in this case may be relevant to the calculation of damages or any judgment related to other claims. In any event, the Court overruled precisely this objection in connection with the Citco settlement, and the Trustee advances no grounds for a different result here. Dkt # 1413 at 5-6.

The Trustee's third and final objection is that the settlement funds should be allocated in some manner between amounts to be paid to investors in the domestic versus the off-shore FGG funds. This is both unnecessary and impractical. Each class member who submits a valid claim will be paid based on that investor's losses. To the extent it is later relevant whether or to what extent payments were made based on investment losses associated with a particular fund, the relevant facts will be easily determinable from the records generated in the claims process. Indeed, it would be difficult, if not impossible, to predict in advance the appropriate allocation of settlement proceeds by "fund" as the amount of and basis for such payments will ultimately depend upon the claims made by participating investors.

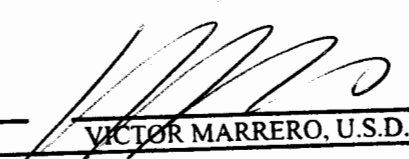
In light of the foregoing, the PwC Defendants respectfully request that the Court deny the Trustee's request for a pre-motion conference and the request to intervene, and overrule the Trustee's objections to the pending settlement.

Respectfully,

/s/ Timothy A. Duffy

Timothy A. Duffy, P.C.

cc: Robert A. Wallner
Counsel of Record (via 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 <u>PwC Defendants herein</u> .	
SO ORDERED.	
1-29-16 DATE	 VICTOR MARRERO, U.S.D.J.