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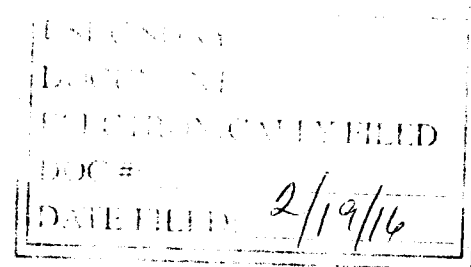
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February 18, 2016

**By Hand Delivery**

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



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

Dear Judge Marrero:

We are Co-Lead Counsel for the plaintiff class in the above *Anwar* action. We write to request that Your Honor grant plaintiffs permission to file a motion for an order rejecting eight requests for exclusion from the Citco Settlement that were received by the Settlement Administrator over two months after the October 16, 2015 deadline for requesting exclusion from the Citco Settlement Class, and over one month after this Court entered the Final Judgment and Order of Dismissal With Prejudice on November 20, 2015 (Dkt. No. 1457). The eight late requests for exclusion gave no reason for their late submission.

As Your Honor knows, plaintiffs entered into a Stipulation of Settlement with the Citco Defendants dated August 12, 2015 (Dkt. No. 1398). Pursuant to that Stipulation, this Court entered a preliminary approval order dated August 13, 2015 (Dkt. No. 1402), and authorized the mailing of a class notice and the publication of a summary notice, which notified class members that any request for exclusion from the Settlement Class was required to be submitted to the Claims Administrator (Rust Consulting, Inc.) so as to be received on or before October 16, 2015. *See* Dkt. No. 1424.

Prior to the final settlement hearing on November 20, 2015, we apprised Your Honor that Rust had received 566 requests for exclusion from the Citco Settlement Class. *See* Dkt. No.

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1445 at 2. Pursuant to the Stipulation of Settlement, Your Honor entered the November 20, 2015 Final Judgment, listing on Exhibit 1 thereto (which was filed under seal) the Settlement Class Members who had opted-out of the Settlement by requesting exclusion from the Settlement Class prior to the November 20, 2015 Final Settlement Hearing. Each of those Class Members was affiliated with Deminor Recovery Services, and Deminor had submitted the requests for exclusion for substantially all Citco Settlement Class Members who requested exclusion. *See* Dkt. No. 1445 at 2.

On December 28, 2015, Rust received from Deminor another set of requests for exclusion on behalf of 19 purported members of the Citco Settlement Class. Eleven of these 19 investors had submitted timely requests for exclusion prior to entry of the Final Judgment and their names are identified as opt-outs in Exhibit 1 to the Final Judgment. With respect to the remaining eight Settlement Class Members who had not previously requested exclusion from the Settlement Class, Deminor provided no reason or explanation for the late submissions. Based on their requests for exclusion, Plaintiffs estimate that these eight Class Members comprise a total of approximately \$616,000 of potential net losses.

On January 22, 2015, plaintiffs wrote to Deminor explaining the basis for recommending that the Court reject the eight untimely requests for exclusion (Exhibit 1)<sup>1</sup>. Deminor responded on February 12, 2015 (Exhibit 2).

Relief from a final judgment under Rule 60(b) requires a showing of “excusable neglect.” The argument in Deminor’s letter of February 12, 2015 does not address this standard, nor otherwise demonstrate a basis to find excusable neglect for the eight investors’ late submission of requests for exclusion. Other courts have rejected late opt-out requests that were made after entry of final judgment dismissing a class action. *See, e.g., In re Adelfia Corp. Sec. & Derivatives Litig.*, 271 F. App’x 41, 44 (2d Cir. 2008) (denying request for extension of time to opt-out where, even though class member became aware of settlement one day after opt-out deadline, it “waited a full month” to seek an extension); *In re Static Random Access Memory (SRAM) Antitrust Litig.*, No. C 07-01819 CW, 2009 WL 2447802, at \* 3 (N.D. Cal. Aug. 7, 2009) (class member’s two month delay in contacting plaintiffs’ counsel after discovering it missed the opt-out deadline “belies its argument that it acted reasonably and diligently” in seeking extension of time to opt-out). *See also Midland Cogeneration Venture L.P. v. Enron Corp. (In re Enron Corp.)*, 419 F.3d 115, 126 (2d Cir. 2005) (“preoccupation or an excessive workload” do not excuse delay).

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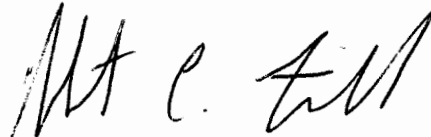
<sup>1</sup> Plaintiffs submit herewith a copy of this letter which redacts the names of Settlement Class Members from Exhibits 1 and 2 to this letter. In the event this letter is publicly filed, we respectfully request that the redacted letter be used for filing purposes to protect the confidentiality of the investors’ identities.

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There is no basis for relieving these eight class members from the operation of the Final Judgment and their requests for exclusion should be denied.

Respectfully submitted,



Robert C. Finkel

RCF:rd

Enclosures

cc: Charles DeMoulin, Esq.  
Andrew G. Gordon, Esq.  
David A. Barrett, Esq.

The Settlement Administrator is directed to respond by 2-23-16, by letter, not to exceed three (3) pages, to the matter set forth above. Plaintiffs Co-lead Counsel are directed to communicate this Order to the Settlement Administrator by close of business  
SO ORDERED: on 2-19-16.  
2-19-16  
DATE VICTOR MARRERO, U.S.D.J.

# **EXHIBIT 1**

LAW OFFICES  
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January 22, 2016

**By Electronic Mail**

Deminor Recovery Services Team  
DRS Belgium SCRL/CVBA  
Avenue Van Nieuwenhuyse Laan 6 b. 8  
1160 Bruxelles-Brussel  
Belgium  
joeri.klein@deminor.com  
charles.demoulin@deminor.com

**Re: Anwar v. Fairfield Greenwich Ltd., 09 CV 0119 (VM) – Late Exclusion Requests**

Dear Deminor Recovery Services Team:

We are co-lead counsel for the plaintiff class in the above *Anwar* action. We have been advised by the claims administrator, Rust Consulting, that on December 28, 2015, they received correspondence from your office (*see* Exhibit A) enclosing 19 requests for exclusion from the Citco Settlement Class (the “December requests”). Pursuant to the Preliminary Approval Order (August 13, 2015) and the Notice of Proposed Partial Settlement of Class Action (August 27, 2015), the deadline for delivery of exclusion requests to Rust Consulting was October 16, 2015.<sup>1</sup> No explanation was provided in your December 28, 2015 letter for the late submission of the December requests.

On November 20, 2015, the District Court entered a Final Judgment approving the Citco Settlement and excluding from the Citco Settlement Class all persons who had filed requests for exclusion from the Settlement Class up to that date.

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<sup>1</sup> All court documents are available on the settlement website: [www.fairfieldgreenwichlitigation.com](http://www.fairfieldgreenwichlitigation.com)

WOLF POPPER LLP  
Deminor Recovery Services Team  
January 22, 2016  
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Eleven of the investors who submitted untimely December requests had previously and timely requested exclusion from the Citco Settlement Class; they are identified as opt-outs in Exhibit 1 to the Citco Final Judgment, which is filed under seal. The remaining eight investors who filed untimely, non-duplicative December requests are listed in Exhibit B to this letter (the "Exhibit B investors").

In the event that you or any of the investors wish to respond to this letter, please do so within two weeks. Subject to review of any responses, it is our intention to inform the District Court on or shortly after February 8, 2016 of the untimely requests for exclusion made by the Exhibit B investors, and to request that the Court endorse our letter confirming the rejection of these requests.

Plaintiffs' co-lead counsel believe that, having been given notice and an opportunity to file requests for exclusion in accordance with Due Process requirements, the Exhibit B investors are members of the Citco Settlement Class who are bound by the Citco Final Judgment, including provisions releasing, and barring further litigation against, the Citco Defendants among others. We are not aware of a basis for reopening the Final Judgment at this time.

We further note that Exhibit B investors may choose to file proof of claim forms that may enable them to share in the class recovery from the Citco Settlement. Because the deadline for filing proofs of claim was December 28, 2015, such claims would be untimely and subject to the discretion of the Court whether they would be accepted.

Sincerely,



Robert C. Finkel

RCF:rd

Enclosures

cc: David A. Barrett, Esq.  
Andrew G. Gordon, Esq.

# **EXHIBIT A**



**d e m i n o r**  
RECOVERY SERVICES

Fairfield Greenwich Securities Litigation  
c/o Rust Consulting  
201 Lyndale Ave. S.  
Faribault, MN 55021

Dear Sir,  
Dear Madam,

In this box you will find the exclusion letters from the Citco Settlement Class in Anwar, et al. v. Fairfield Greenwich Limited, et al., Case No. 09-cv-118 for the following clients:

<u>Claim ID</u>	<u>Claimant</u>	<u>Joint claimant(s)</u>
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**REDACTED**

Please treat these exclusion letters as confidential protected information as stipulated in the order preliminarily approving the settlement and providing for notice of proposed settlement.

We remain available should you have any question with respect to these requests for exclusion.

Yours sincerely,

The Deminor Recovery Services Team

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## **EXHIBIT B**

Fairfield Greenwich Securities Litigation Citco Settlement  
Exclusion Requests

**Name of Claimant**

REDACTED

## **EXHIBIT 2**



d e m i n o o r  
RECOVERY SERVICES

Mr. Robert Finkel  
Wolf Popper LLP  
845 Third Avenue  
New York, NY 10022-6601  
United States of America

February 12, 2016

By e-mail: [RFinkel@wolffpopper.com](mailto:RFinkel@wolffpopper.com)

**Your references: Anwar v. Fairfield Greenwich Ltd., 09 CV 0119 (VM) – Late Exclusion Requests**

Dear Sir,

We refer to your letter of January 22, 2016 in which you write that eight investors (whom you listed in Exhibit B to your letter) would have filed untimely requests for exclusion from the Citco Settlement Class and would therefore be bound by the Citco Final Judgment. According to you, those eight investors would have provided a release to, and be barred from further litigations against, the Citco Defendants.

We disagree for the reasons stated below.

Legal proceedings against Citco Bank Nederland N.V., Citco Fund Services (Europe) B.V. and Citco Global Custody N.V. (hereafter together “Citco”) have been initiated in 2010 in the Netherlands on behalf of a group of around 700 investors. These proceedings, which are still pending, are related to the role and involvement of Citco with the Fairfield funds (Fairfield Sentry, Sigma and Lambda). We advise and represent the investors involved in these proceedings. They are represented in court by lawyers from CMS Derks Star Busmann N.V.

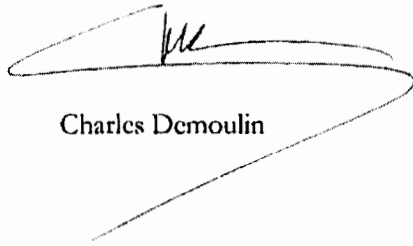
In November 2015, our clients’ lawyers sent a letter to Mr. Michel Deckers who represents Citco in the Dutch legal proceedings. With that letter, Citco was clearly and unequivocally informed that all investors who are involved in the Dutch proceedings did not (and still do not) consider themselves to be bound by the provisions of the class settlement in the US class action, regardless of whether they would be part of the “Settlement Class” and/or would (not) have (timely) filed an exclusion letter requesting their exclusion from the Citco Class Settlement. All investors were identified in an exhibit to that letter.

Since our clients have explicitly elected to participate in a legal action in the Netherlands against Citco and they have once more formally confirmed through their Dutch lawyers that they want to continue litigation in the Netherlands regardless of any class settlement in the US, the fact that some of them would not have (timely) excluded themselves from the class settlement in the US

cannot be considered by Citco as an acceptance, even implicit, of the Citco Class Settlement. In other words, our clients cannot be prevented from continuing to litigate in the Netherlands against Citco and they have not waived any rights or claims against Citco. The only exception we could think of is where an investor would have voluntarily and formally accepted to be bound by the Class Settlement in the US.

Citco was perfectly aware of this. We are therefore rather surprised that you deemed it necessary to raise this issue once more. We trust that we have now clarified this matter.

Yours sincerely,



Charles Demoulin



Joeri Klein  
P.P.