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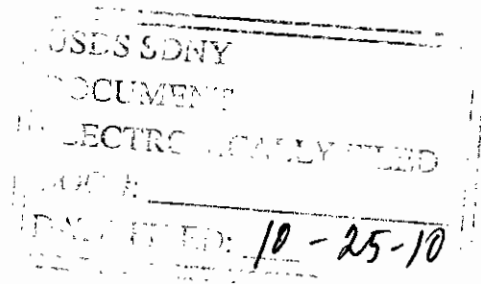
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October 21, 2010

BY FACSIMILE to (212) 805-6382

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



Re: Anwar, et al. v. Fairfield Greenwich Limited, et al.,  
09-CV-118 (VM) (THK) (Valladolid)

Dear Judge Marrero:

We write on behalf of Standard Chartered International (USA) Ltd., Standard Chartered Bank International (Americas) Ltd. and Standard Chartered PLC (collectively, "Standard Chartered"), defendants in the above-captioned action, regarding the motion for reconsideration that was filed subsequent to the conference call with Your Honor on October 20, 2010.

On October 4, 2010, Your Honor dismissed negligence claims against Standard Chartered brought by plaintiffs in *Headway v. American Express Bank, Ltd., et al.* ("*Headway*"), and *Valladolid v. American Express Bank, et al.* ("*Valladolid*"), on the ground that plaintiffs had abandoned those claims. (Order on Motions to Dismiss ("*Dismissal Order*"), Docket No. 543.) On October 18, plaintiffs in *Headway*, filed a Motion for Reconsideration (Docket No. 549), arguing that they had not abandoned their negligence claim against Standard Chartered. Your Honor convened a conference call to discuss the motion yesterday, October 20, during which Your Honor concluded that negligence claims against Standard Chartered were not abandoned and ruled that *Headway's* Motion for Reconsideration would be granted.

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Although Your Honor has not yet communicated his ruling in a written order, it appears likely that Your Honor also intends to reinstate the negligence claim brought against Standard Chartered in *Valladolid*. During the call, counsel for Valladolid announced for the first time that Valladolid intended to join in Headway's motion, and a Motion for Joinder was filed after the call (Docket No. 552). Having now reviewed the Dismissal Order as it pertains to the joinder filed by Valladolid after yesterday's call, and in light of the views expressed by Your Honor during that call, Standard Chartered respectfully submits that Valladolid's negligence claim should not be reinstated because, even if not abandoned, it is barred as a matter of law by a valid and enforceable exculpatory clause and Florida's economic loss doctrine.

Standard Chartered argued in its Unified Motion to Dismiss (the "Motion to Dismiss," Docket No. 384) and accompanying memorandums of law and declarations (Docket Nos. 385, 386, 474) that Valladolid's negligence claim is barred by a valid and enforceable exculpatory clause and Florida's economic loss doctrine, but the Court had no occasion to reach these arguments because Valladolid's negligence claim was deemed abandoned. Standard Chartered respectfully requests that Your Honor consider both arguments before reinstating Valladolid's negligence claim.

As Your Honor recognized in his October 4 Dismissal Order, Valladolid's account with Standard Chartered is governed by a Nondiscretionary Investment Services Agreement ("NISA"). (Dismissal Order at 11-12.) The NISA contains an exculpatory clause stating that "AEBI shall not be liable for the exercise of any action, inaction, omission or for any matter whatsoever in connection with the Investment Account, or for any loss or depreciation in value of the Investment Account's Holdings, unless resulting from AEBI's gross negligence, willful misconduct, or bad faith." (Declaration of Patrick B. Berarducci in Support of Motion to Dismiss Exs. N-O ¶ 5 (Docket No. 386).) Under Florida law, such a clause is valid and enforceable. (See Motion to Dismiss at 11, 45-47.)

Separately, because Valladolid's account with Standard Chartered is governed by a valid and enforceable contract, Florida's economic loss doctrine bars Valladolid from maintaining a negligence claim against Standard Chartered. (See Motion to Dismiss at 39-41.) Although Your Honor ruled in the Dismissal Order that the applicable Florida law did not bar breach of fiduciary duty claims under the economic loss doctrine (Dismissal Order at 28-31), Your Honor's reasoning does not extend to negligence claims. Florida's economic loss rule does, without question, bar simple negligence claims. (See Reply in Support of Motion to Dismiss at 11 (Docket No. 474).)

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Accordingly, Valladolid cannot maintain a negligence claim against Standard Chartered, and no such claim should be reinstated or otherwise maintained.

Respectfully submitted,

*Sharon Nelles*

Sharon L. Nelles

*Counsel to Standard  
Chartered International  
(USA) Ltd., Standard  
Chartered Bank International  
(Americas) Ltd. and Standard  
Chartered PLC*

cc: Counsel for all parties (by e-mail)

Plaintiff Valladolid in the action
referred to above is directed to
respond by 11-5-10, by letter not to
exceed 3 pages, to the matter
set forth herein as defendant
Standard Chartered Bank Inter-
<b>SO ORDERED:</b> national (Americas)
10-25-10
DATE VICTOR MARRERO, U.S.D.J.