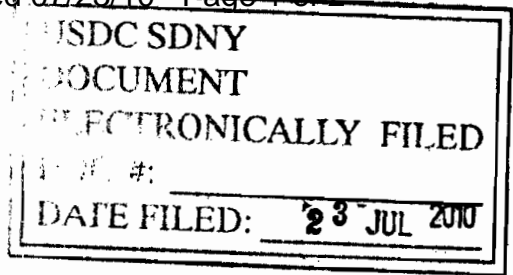


Exhibit C



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
:
Tradex Global Master Fund SPC Ltd., :
:
Plaintiffs, :
-against- :
:
Inder Rieden, et. al., :
:
Defendant. :
:
----- X

09 CV 6395

ORDER

GEORGE B. DANIELS, District Judge:

Plaintiffs bring this action against Defendants alleging breach of fiduciary duty, negligence, unjust enrichment, accounting, common law fraud, negligent misrepresentation, conversion, aiding and abetting common law fraud and aiding and abetting breach of fiduciary duty claims. Plaintiff is a British Virgin Islands Business Company which invested with Santa Clara I Fund,¹ a fund which was formed as an open-ended investment company incorporated in the Commonwealth of the Bahamas as an International Business Company. See Proposed Amended Compl. ¶ 16, 34. Defendants filed a Motion to Dismiss the complaint. In response, Plaintiff moved for leave to amend their complaint pursuant to Fed. R. Civ. P. 15 dropping all the state law claims and alleging federal securities fraud claims.

Pursuant to Fed. R. Civ. P. 15(a), leave to amend a pleading shall be freely granted when

¹Santa Clara subsequently invested all of its money with Harley International (Cayman) Ltd., an international business company organized under the laws of the Cayman Islands. See Proposed Amended Compl. ¶ 18, 34. Harley International (Cayman) Ltd. then invested substantially all of its money with Bernie L. Madoff Investment Securities LLC. See Proposed Amended Compl. ¶ 1, 34. Defendant Ernst & Young (Cayman Islands) served as primary outside auditor for both Santa Clara and Harley.


justice requires, however, “the district court has the discretion to deny leave if there is a good reason for it, such as futility, bad faith, undue delay, or undue prejudice to the opposing party.” Min Jin v. Metro. Life Ins. Co., 310 F.3d 84, 101 (2d Cir. 2002) (citing Foman v. Davis, 371 U.S. 178, 182 (1962)). “A proposed amendment to a pleading would be futile if it could not withstand a motion to dismiss pursuant to Rule 12(b)(6).” Martin v. Dickson, No. 03-7917, 2004 U.S. App. LEXIS 10725, at *6 (2d Cir. 2004).

In this case, an amendment would be futile. Plaintiff’s securities claims involve foreign securities transactions in a foreign fund. The Supreme Court in Morrison v. Nat’l Australian Bank, No. 08-1191, 561 U.S. ___, (2010), recently adopted a transactional test. The Supreme Court explained that the transactional test is met when there are “transactions in securities listed on domestic exchanges, and domestic transactions in other securities.” Plaintiff’s amended complaint involves no securities listed on a domestic exchange, nor any securities purchased in the United States.

Plaintiff’s motion for leave to amend is denied.

Dated: July 23, 2010
New York, New York

SO ORDERED: 23 JUL 2010


GEORGE B. DANIELS
United States District Judge
HON. GEORGE B. DANIELS