

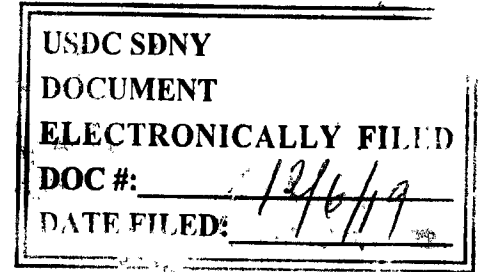
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December 5, 2019

By Facsimile

Honorable Victor Marrero
United States District Court Judge
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 15B
New York, NY 10017

Re: Anwar v. Fairfield Greenwich Limited, et al., 09-CV-00118 (VM)

Dear Judge Marrero:

We are a co-lead plaintiffs' counsel in the above action.

As Your Honor may recall, the Court approved four separate settlements and entered four separate distributions orders with respect to settlements with the FG Defendants¹ (Distribution Order dated December 19, 2014; Dkt No. 1345), GlobeOp Financial Services, Ltd. (Distribution Order dated August 1, 2014; Dkt No. 1322), the Citco Defendants (Distribution Order dated November 10, 2016; Dkt No. 1575), and the PwC Defendants (Distribution Order dated November 10, 2016; Dkt No. 1576). The claims administrator (Rust Consulting, Inc.) has completed distribution of the settlement funds pursuant to the Court's Distribution Orders. Despite Rust's diligence, there remains in the various settlement funds \$718,962 in uncashed checks (including accumulated interest of \$14,390), as follows: (i) \$158,747 in the FG Settlement Fund (distributed over 149 uncashed checks) and (ii) \$545,825 in the Citco and PwC Settlement Funds (distributed over 81 uncashed checks).² These undistributed funds are equivalent to 0.47% of the \$154,568,819 in settlement funds (in the aggregate) that the Court approved for distribution from these funds to class members.

¹ All capitalized terms are defined in the respective Distribution Orders or Stipulations of Settlement.

² The GlobeOp Settlement Fund has been fully distributed.

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We write to request Your Honor's approval (i) to distribute \$367,808 of the remaining settlement funds to four class members whose claims were either received by Rust, or the defects in those claims were cured, after the Court's entry of the Distribution Orders, and (ii) to distribute the \$314,362 balance of the net remaining settlement funds to those claims members who filed valid claims, cashed their settlement checks, and would receive a supplemental distribution of at least \$100.³ If this proposal is approved by the Court, approximately 344 class members will participate in this supplemental distribution.

1. Counsel's Request that the Court Approve Distributions to Four Class Members

Your Honor's Distribution Orders directed that no further late claims be accepted for filing. However, one claimant with a \$19,666 claim in the Citco settlement, whose claim had not been received by Rust prior to the Court's deadline, provided Rust with a postal receipt indicating that the claim was timely mailed. A second claimant, with a \$10,500,000 claim in the Citco settlement, was able to cure a defect in its claim, with the assistance of its counsel, after the deadline. A third claimant, with a \$100,005 claim in the Citco and PwC settlements, filed its claim after the Court's deadline. A fourth claimant with a \$6,199,126 claim in the PwC claim had its claim initially marked defective by Rust in error.

Plaintiffs' co-lead counsel and Rust are satisfied that good cause exists to accept these four claims.

The four claims will be paid a total of \$367,808 (subject to approval by the Court) using the same pro-ration as used to pay other class members in the Citco and PwC settlement funds. This \$367,808 payment is equivalent to 0.24% of the funds originally available for distribution to class members. Accordingly, no class member will be materially prejudiced if the Court approves this supplemental distribution to these class members.

2. Counsel's Request that the Court Approve the Supplement Distribution of Remaining Funds

Each of the four court-approved Plans of Allocation provided for the distribution of uncashed funds, as follows:

If there is any balance remaining in the Net Settlement Fund (whether by reason of unclaimed funds, tax refunds, uncashed checks, or otherwise) ... then Plaintiffs' Counsel shall, upon approval of the Court, disburse such balance

³The claims administrator has incurred and estimates that it will continue to incur a total of \$36,792 in supplemental distribution fees and expenses to effect these distributions, which were not provided for in the Court's initial Distribution Orders. Lead Counsel proposes paying those fees and expenses out of the \$718,962 in undistributed funds.

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among Authorized Claimants as many times as is necessary, in a manner consistent with this Plan of Allocation, until each Authorized Claimant has received its Net Loss (but no greater than its Net Loss) as defined in this Plan. If Plaintiffs' Lead Counsel determines that it is not cost-effective to conduct such further disbursement, or following such further disbursement any balance still remains in the Net Settlement Fund, Plaintiffs' Counsel shall, upon approval of the Court, and without further notice to Settlement Class Members, cause the remaining balance to be disbursed *cy pres*. Plaintiffs' Lead Counsel shall also consider the potential for additional distributions to be made from the Escrow Fund or other settlements or judgments in proposing supplemental distributions from the Net Settlement Fund.^[4]

As noted above, counsel propose that only those class members who had previously cashed their settlement checks, and who would receive a supplemental distribution of at least \$100, will share in the supplemental distribution. This will limit the number of class members to approximately 344 participating in the supplemental distribution and will lessen the burden, cost and time required for Rust to administer the supplemental distribution. Inasmuch as only \$314,362 or 0.20% of the amount originally available for distribution to class members will be distributed to these additional claimants, those class members who would have received a supplemental distribution of less than \$100 will not be substantially prejudiced by this distribution.

3. Remaining Provisions

Based on the \$314,362 currently available for this supplemental distribution, it is highly unlikely that there will be sufficient funds for a second supplemental distribution. In any event, counsel requests in advance permission to either distribute such funds in a second supplemental distribution, or if we determine that it is not cost-effective to conduct a second supplemental distribution, to cause without further notice to class members the remaining balance in the settlement accounts to be disbursed *cy pres* one-third each the National Conference on Public

⁴ The FG Settlement provided for a \$30 million escrow fund to be released to class members in the event that fund was not used for settlement of related litigation commenced, and still proceeding, against the FG Defendants. *See* ECF No. 996 (¶18) (FG Stipulation of Settlement). That \$30 million remains in escrow subject to contingencies, and counsel has no current expectation as to when those funds may be released, if at all.

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Employees Retirement System Charitable Foundation,⁵ to the Financial Literacy debate program at the National Association for Urban Debate Leagues ("NAUDL"),⁶ and Better Markets.⁷


Assuming that the foregoing is agreeable with Your Honor, we respectfully request that this letter be So Ordered and docketed by the Court.

Respectfully submitted,



Robert C. Finkel

RCF:rd

<p><i>Request GRANTED. Co-lead counsel are authorized to make distributions of unclaimed settlement funds in this action in accordance with the proposed allocation plan set forth above.</i></p> <p>SO ORDERED</p> <p><i>12-6-19</i></p> <p>DATE</p>	 VICTOR MARRERO, U.S.D.J.
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⁵ NCPERS Charitable Foundation was established in 2008 to help in the rebuilding of New Orleans--the host city to its Annual Conference that year--from the damage Hurricane Katrina caused in 2005. NCPERS continues its tradition of charitable work by raising funds for worthy organizations in the host city of its Annual Conference and Exhibition. See <http://www.ncpers.org/content.asp?contentid=752>.

⁶ NAUDL is a national not-for-profit that supports debate programs for urban public high school students across America. Its financial literacy debate program helps educate students on how to understand financial information and to succeed and lead in the 21st century. See <https://urbandebate.org/what-we-do/financial-literacy-debates/>. Plaintiffs' counsel Stuart Singer is chair of the NAUDL Board.

⁷ Better Markets is a non-profit, non-partisan, and independent organization, whose stated mission is to fight for the economic security, opportunity and prosperity of the American people by ensuring finance serves society. Better Markets works to protect the American Dream of homes, jobs, savings, education, a secure retirement and a rising standard of living. See <https://bettermarkets.com>.