

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE AEGEAN MARINE
PETROLEUM NETWORK, INC.
SECURITIES LITIGATION

)
) Case No. 1:18-cv-04993 (NRB)
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) Hon. Naomi Reice Buchwald
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**DECLARATION OF NICOLE LAVALLEE IN SUPPORT OF (A) LEAD PLAINTIFF'S
MOTION FOR: (I) FINAL APPROVAL OF THE PROPOSED PARTIAL CLASS ACTION
SETTLEMENTS WITH PRICEWATERHOUSECOOPERS AUDITING COMPANY S.A.
AND DELOITTE CERTIFIED PUBLIC ACCOUNTANTS, S.A.; (II) FINAL
CERTIFICATION OF THE SETTLEMENT CLASS; AND (III) FINAL APPROVAL OF
THE PROPOSED PLANS OF ALLOCATION; AND (B) LEAD COUNSEL'S MOTION
FOR ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES AND
THE ESTABLISHMENT OF A LITIGATION EXPENSE FUND**

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I, Nicole Lavalley, declare:

1. I am a partner in the San Francisco office of Berman Tabacco, the Court-appointed Lead Counsel for Lead Plaintiff Utah Retirement Systems (“Lead Plaintiff” or “URS”) and the proposed class counsel in the above-captioned matter. As a result of my own substantial involvement in this litigation, I have personal knowledge of the facts set forth in this declaration.

2. I respectfully submit this declaration in support of Lead Plaintiff’s Motion For (I) Final Approval of the Proposed Partial Class Action Settlements with PricewaterhouseCoopers Auditing Company S.A. and Deloitte Certified Public Accounts, S.A.; (ii) Final Certification of the Settlement Class; and (iii) Final Approval of the Proposed Plans of Allocation (the “Final Approval Motion”).¹

3. I also respectfully submit this declaration in support of Lead Counsel’s Motion for Attorneys’ Fees and Reimbursement of Litigation Expenses and the Establishment of a Litigation Fund (the “Fee and Expense Application”).

I. Preliminary Statement

4. After extensive investigation and discovery for over three years of litigation, as well as extensive arm’s-length negotiations between highly experienced counsel, Lead Plaintiff and the Settling Defendants have agreed to settle all claims against PricewaterhouseCoopers Auditing Company S.A. (“PwC Greece”) and Deloitte Certified Public Accountants, S.A. (“Deloitte Greece”) (collectively, the “Settling Defendants”) in this Action in exchange (a) for a total payment of \$29.8 million (\$14.9 million each from PwC Greece and Deloitte Greece), which has been deposited in interest-bearing escrow accounts (the “Partial Settlement Funds”); and (b) an agreement by each of the Settling Defendants to produce, within 15 days after entry of the Order and Final Judgment, relevant documents, including audit workpapers, in a form and manner that

¹ All capitalized terms not otherwise defined herein have the same meaning as in the Notice of (I) Pendency of Class Action and Proposed Partial Settlements; and (II) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys’ Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund (the “Omnibus Notice”) (ECF No. 359-1) and the Plans of Allocation (defined below) (ECF No. 356-3).

renders them authentic business records. PwC Greece Stipulation §4 (ECF No. 351-2); Deloitte Greece Stipulation §4 (ECF No. 351-3).

5. As set forth in the PwC Greece Stipulation and the Deloitte Greece Stipulation, in exchange for said consideration, the proposed Partial Settlements resolve all claims asserted by Lead Plaintiff and the Settlement Class against the Settling Defendants in the Action. These Partial Settlements do not resolve the claims against the Non-Settling Defendants.²

6. Although Lead Counsel believe the claims alleged against the Settling Defendants are meritorious, Lead Counsel recognize the uncertainty and the risk attendant to any litigation—especially a complex class action such as this—and the difficulties, substantial expense and length of time necessary to prosecute the litigation through fact and expert discovery, summary judgment motions, trial, post-trial motions and appeals.

7. Lead Plaintiff and Lead Counsel had a clear understanding of the strengths and weaknesses of the case when they negotiated the Partial Settlements. As detailed below, before agreeing to the Partial Settlements, Lead Counsel conducted an extensive investigation into the events and transactions underlying the claims, which included reviewing and analyzing publicly available information and data concerning Aegean Marine Petroleum Networks, Inc. (“Aegean” or the “Company”) and potential defendants, interviewing witnesses and consulting with experts on issues related to bankruptcy, damages, loss causation and foreign laws on a variety of issues. Lead Counsel researched the applicable law with respect to the alleged claims, including the claims against the Settling Defendants, the potential defenses thereto and issues stemming from the fact that some Defendants (defined below) were non-U.S. residents. Lead Counsel also extensively researched and briefed motions, including opposing nine motions to dismiss. Further, in light of pending Bankruptcy Action (defined below), Lead Counsel retained Bankruptcy Counsel (defined below) to protect the interests of the Settlement Class in the Bankruptcy Action,³ which proved to

² The “Non-Settling Defendants” are Defendants Dimitris Melissanidis (“Melissanidis”) and Spyros Gianniotis (“Gianniotis”).

³ Five months after the first complaint was filed in this Action, Aegean filed proceedings under Chapter 11 of the U.S.

be crucial in preserving the rights of the Settlement Class to pursue and recover for the claims in this Action. Moreover, Lead Plaintiff engaged in lengthy, fact-intensive negotiations with the Settling Defendants. Thus, at the time Partial Settlements were reached, Lead Counsel had a thorough understanding of the strengths and weaknesses of the parties' positions.

8. As described herein, Lead Counsel have vigorously prosecuted this Action and will continue to do so. In particular, they exhausted considerable resources to (a) investigate the claims and defenses at issue; (b) review Aegean's public U.S. Securities and Exchange Commission filings, annual reports, press releases, earnings calls and other publicly available information spanning over a decade; (c) review analysts' reports and articles relating to Aegean; (d) work with investigative staff to uncover relevant facts and witnesses; (e) research legal issues and analyze documents filed in connection with several court cases involving Aegean and/or some of the Company Defendants (defined below), including a significant volume of pleadings and discovery filed in the Aegean Bankruptcy Action and pleadings filed in cases brought in the U.S. and overseas by the Litigation Trustee appointed pursuant to Aegean's Chapter 11 Plan of Reorganization⁴; (f) work extensively with forensic auditing consultants regarding the alleged accounting fraud, as well as the alleged liability of the Settling Defendants in issuing their audit opinions; (g) prepare a comprehensive Consolidated Class Action Complaint ("Complaint") (ECF No. 81); (h) retain and work with Bankruptcy Counsel, Lowenstein (defined below), to protect the Settlement Class's claims by, among other things, successfully opposing Aegean's efforts, through the Bankruptcy Action, to release all investors' claims under the federal securities laws—including those against not just Aegean but also third parties such as the Settling Defendants; (i) consult and work with damages consultants; (j) consult with international privacy law consultants; (k) work on extensive briefing to oppose Defendants' motions to dismiss; (l) research applicable law with respect to the

Bankruptcy Code. *See* Voluntary Petition for Non-Individuals Filing for Bankruptcy, *In re Aegean Marine Petroleum Network, Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Nov. 6, 2018), ECF No. 1 ("Bankruptcy Action").

⁴ The Chapter 11 Plan established a Litigation Trust to pursue claims belonging to Aegean's bankruptcy estate against various potential wrongdoers on behalf of the estate.

claims asserted in Lead Plaintiff's Complaint and the potential defenses thereto, including the fact that Aegean's headquarters was based in Greece and certain Defendants were Greek residents; (m) consult with foreign counsel on various matters; (n) issue numerous document requests and subpoenas; (o) engage in extensive meet and confers with Defendants and non-parties; (p) obtain and commence review of a significant number of produced documents; and (q) work with the Court-appointed Claims Administrator to provide notice of the Partial Settlements to Settlement Class Members.

9. Moreover, as discussed below, Lead Plaintiff obtained this recovery for the Settlement Class despite heightened significant challenges and risks related to the claims against the Settling Defendants, who were independent auditors residing in Greece. In reaching the Partial Settlements, Lead Plaintiff and Lead Counsel weighed, among other matters, the substantial and certain cash benefit to Settlement Class Members against: (a) the difficulties involved in proving the required elements of materiality, falsity, scienter, loss causation and damages against the Settling Defendants; (b) the difficulties in overcoming challenges to class certification and the delays involved in the inevitable appeals of a decision on class certification; (c) the fact that, even if Lead Plaintiff were to prevail at summary judgment and trial, any monetary recovery could have been less than the Partial Settlement Amount, particularly given the fact that the Settling Defendants were Aegean's independent auditors; and (d) the delays that would follow even a favorable judgment including appeals. These risks and challenges are outlined below.

10. The Partial Settlements were reached only after extensive arm's-length negotiations between experienced counsel.

11. For the reasons set forth herein, I believe that the Partial Settlements represent a very favorable outcome for the Settlement Class and that their approval is in the best interest of the Settlement Class.

12. As discussed in further detail below, each of the Plans of Allocation were developed with the assistance of Lead Plaintiff's damages consultant and each provides for the distribution of the PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund to Settlement

Class Members who submit timely Claim Forms that are approved for payment on a *pro rata* basis based on Authorized Claimants' losses that are attributable to the fraud alleged against each of the Settling Defendants.

13. As discussed in the memorandum in support of the Fee and Expense Application, the requested fee of 25% of the Partial Settlement Funds is well within the range of percentage awards granted by courts in this Circuit. Additionally, the fee requested represents a negative multiplier of 0.77 on the collective lodestar of Lead Counsel and Bankruptcy Counsel. Moreover, Lead Counsel's request for reimbursement of Litigation Expenses, including Lead Plaintiff's expenses pursuant to 15 U.S.C. § 78u-4(a)(4), are reasonable and of the type typically reimbursed in securities fraud class actions.

14. Finally, for the reasons set forth below, Lead Counsel submits that its requests for the establishment of a Litigation Expense Fund of \$500,000 is justified and of the type that has been approved in other securities fraud class actions.

15. On June 3, 2022, this Court preliminarily approved the Partial Settlements, preliminarily certified the Settlement Class for settlement purposes and approved the program for providing Notice to the Settlement Class (the "Preliminary Approval Orders"). ECF Nos. 361-62. While the deadline to submit objections and requests for exclusion has not passed, I am informed by the Claims Administrator A.B. Data, Ltd. ("A.B. Data") that, to date, no Settlement Class Member has objected to the Partial Settlements, the Plans of Allocation or the Fee and Expense Application, I am further informed by the Claims Administrator that it has not received any requests for exclusion.

16. For all the reasons set forth herein and in the accompanying memoranda, including with respect to the exceptional result obtained and the numerous significant litigation risks and challenges to the continued pursuit of the claims against the Settling Defendants, Lead Counsel respectfully submits that the Partial Settlements and Plans of Allocation are fair, reasonable and adequate and should be approved, and that their Fee and Expense Application likewise should be approved.

17. I have been informed by both PwC Greece’s Counsel and Deloitte Greece’s Counsel that neither PwC Greece nor Deloitte Greece oppose this motion. Both PwC Greece and Deloitte Greece take no position on any of the calculations contained in this declaration, including Lead Counsel’s calculations of likely recoverable damages under the Plans of Allocation, average distribution per share and attorneys’ fees per share.

II. Factual Summary of Lead Plaintiff’s Claims Against The Settling Defendants

18. The following summarizes the factual and procedural history of this Action, including the investigation and filing of this litigation, motion to dismiss proceedings, settlement negotiations and the Partial Settlements.

19. This securities class action involves an alleged massive fraud involving complex accounting shenanigans at Aegean—an international marine fuel logistics company founded in 1995 by Defendant Melissanidis (the “Founder”) and certain of its former insiders—that spanned at least eight years. In fact, when new management determined that fraud had occurred, it also acknowledged that this fraud was both concealed and that documents had been destroyed.

20. Specifically, Lead Plaintiff alleges that Company insiders engaged in a long-running, multi-faceted fraudulent scheme through which they (a) significantly overstated the Company’s income and revenue in its public filings and reports; (b) overstated the Company’s assets and the strength of its balance sheet; (c) misled investors concerning the adequacy of the Company’s internal controls over financial reporting (“ICFR”); and (d) misappropriated Company assets. Lead Plaintiff further alleges that several insiders also engaged in insider trading.

21. The Settling Defendants acted as Aegean’s independent auditors during the Settlement Class Period and Lead Plaintiff alleged that their Class Period audit opinions were materially false and misleading. Both of the Settling Defendants deny these allegations by Lead Plaintiff.

22. This fraud remained concealed to the investing market for years. However, because of actions undertaken by certain shareholders, the Company’s entire Audit Committee stepped down in May 2018 and a reconstituted Audit Committee (the “Reconstituted Audit Committee”)

was formed with new, independent directors. Only weeks later, on June 4, 2018, the Company announced that \$200 million in accounts receivable had to be written off because the receivables were based on allegedly fraudulent transactions. On November 2, 2018, following an internal investigation by outside counsel and retained forensic accountants, the Company announced that the Reconstituted Audit Committee had determined that: (a) the Company's financial results were manipulated by improperly booking approximately \$200 million in accounts receivables from bogus transactions with four shell companies controlled by former employees or affiliates of the Company; (b) approximately \$300 million in cash and assets had been misappropriated by former affiliates, including through a 2010 contract with OilTank Engineering & Consulting Ltd.; (c) the revenues and earnings of the Company were substantially overstated in the years 2015, 2016 and 2017 and that both year-end and interim financials for these periods should no longer be relied upon and would need to be restated; (d) there were material weaknesses in the Company's ICFR as of December 31, 2015, 2016 and 2017 and, as such, management's annual report on ICFR as of December 31, 2015, and 2016 included in the Company's Annual Reports on Form 20-F and also for the 2017 interim results should no longer be relied upon and would need to be restated; (e) insiders had engaged in additional actions to defraud the Company, including engaging in prepayments for future oil deliveries which were never made; and (f) the U.S. Department of Justice had issued a grand jury subpoena in connection with suspected felonies. Then, on November 6, 2018, Aegean filed bankruptcy proceedings under Chapter 11 of the U.S. Bankruptcy Code in the Southern District of New York, Case No. 18-13374 (MEW) (the "Bankruptcy Action").

23. The Settling Defendants—PwC Greece and Deloitte Greece—each served as the Company's principal independent auditor at varying times. Deloitte Greece, which had been Aegean's auditor since prior to its 2005 IPO, issued unqualified or "clean" audit opinions that Aegean's year-end financial statements were fairly presented in accordance with U.S. Generally Accepted Accounting Principles ("GAAP") as to the years 2013, 2014 and 2015, that Aegean's ICFR were effective in 2013 and 2015 and consented to the reissuance of its 2015 audit opinions

in Aegean's Annual Report for the fiscal year ended December 31, 2016. PwC Greece, which became Aegean's auditor in 2016, several years after the start of the Settlement Class Period, issued its first and only audit opinion representing that Aegean's ICFR were adequate and that its 2016 year-end financial statements complied with GAAP on May 16, 2017.

III. Relevant Procedural History

A. Initial Complaint

24. On June 5, 2018, an initial complaint was filed against Aegean and certain officers and directors of Aegean, in the United States District Court for the Southern District of New York asserting violations of the federal securities laws: *Simco v. Aegean Marine Petroleum Network, Inc., et al.*, No. 1:18-cv-04993-NRB. ECF No. 1.

B. Appointment of Lead Plaintiff

25. On August 6, 2018, URS moved for appointment as lead plaintiff and requested that its counsel, Berman Tabacco, be appointed co-lead counsel. ECF No. 28.

26. Ten competing motions seeking appointment as lead plaintiff were filed. ECF Nos. 4, 8, 11, 16, 19-20, 28, 34, 37 and 41. By the time Lead Plaintiff filed its opposition to the competing motions, seven of the movants had withdrawn their motions or filed non-oppositions. ECF Nos. 48, 50-52 and 54-56. The motions were fully briefed and, by Order dated October 30, 2018, the Court appointed URS as Lead Plaintiff and approved its selection of Berman Tabacco as Lead Counsel. ECF No. 69.

C. The Consolidated Complaint, Investigation and Motions To Dismiss

27. On February 1, 2019, after extensive investigation by Lead Counsel, Lead Plaintiff filed its Consolidated Class Action Complaint (the "Complaint" or "Consolidated Complaint") alleging violations of Sections 10(b), 20(a), 20(b) and 20A of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b), 78t(a), 78t(b) and 78t-1, and the rules and regulations promulgated thereunder, including Rule 10b-5, 17 C.F.R. §§ 240.10b-5(b) (misrepresentations and omissions) and 240.10b-5(a) and (c) (scheme liability). The named Defendants were the Founder, officers and directors of

Aegean,⁵ PwC Greece, PricewaterhouseCoopers International Limited (“PwCIL”), PricewaterhouseCoopers LLP (“PwC US”), Deloitte Greece, Deloitte Touche Tohmatsu Limited (“DTTL”) and Deloitte & Touche LLP (“Deloitte US”). ECF No. 81.

28. On March 6, 2020, the Settling Defendants filed a joint motion to dismiss the Complaint. ECF Nos. 187-88. Eight additional motions to dismiss were filed by the Founder and former officers and directors at Aegean, as well as the other PwC and Deloitte entities named as defendants: (a) Nikolas Tavlarios, Georgiopoulos, John Tavlarios and Konomos (ECF No. 196); (b) Fokas (ECF No. 210); (c) Gianniotis (ECF No. 229); (d) Koutsomitopoulos and Papanicolaou (ECF No. 232); (e) McIlroy (ECF No. 225); (f) Melissanidis (ECF Nos. 199-200); (g) Deloitte US and PwC US (who filed separate motions to dismiss the Complaint with a joint memorandum of law in support) (ECF Nos. 180, 182, 184); and (h) DTTL and PwCIL (who filed a joint motion to dismiss) (ECF Nos. 191-92).

29. On June 30, 2020, Lead Plaintiff opposed each of the motions to dismiss (ECF Nos. 239-51). Defendants filed their replies on August 20, 2020 (ECF Nos. 261-74) and a hearing was held on March 9, 2021.

30. On March 29, 2021, the Court issued an order that denied PwC Greece and Deloitte Greece’s joint motion to dismiss. ECF No. 293. In the same order, the Court (a) denied the motion by Gianniotis to dismiss the Section 10(b), 20(b) and 20A claims asserted against him; (b) denied, in part, the motion to dismiss filed by Melissanidis by upholding the Section 20A claim against him; and (c) granted the motions to dismiss filed by several other defendants, including the joint motion filed by PwCIL and DTTL, and the motions filed by PwC US and Deloitte US. *Id.*

⁵ The former officers and directors at Aegean against whom the Complaint alleged claims were: (i) E. Nikolas Tavlarios (“Nikolas Tavlarios”); (ii) Peter C. Georgiopoulos (“Georgiopoulos”); (iii) John P. Tavlarios (“John Tavlarios”); (iv) George Konomos (“Konomos”); (v) Spyridon Fokas (“Fokas”); (vi) Gianniotis; (vii) Konstantinos D. Koutsomitopoulos (“Koutsomitopoulos”); (viii) Yiannis N. Papanicolaou (“Papanicolaou”); and (ix) Jonathan McIlroy (“McIlroy”) (together with Melissanidis, the “Company Defendants”; the Company Defendants together with PwC Greece and Deloitte Greece, the “Defendants”). While Aegean was initially named as a defendant in the first-filed case, it was not named as a defendant in the Complaint because its filing of a Petition for relief under Chapter 11 of the Bankruptcy Code in November 2018 operated as a stay against the continuation of litigation against it.

D. The Bankruptcy Action

31. In light of the complexities introduced by the Bankruptcy Action, Lead Counsel retained Lowenstein Sandler LLP (“Lowenstein” or “Bankruptcy Counsel”), counsel specializing in bankruptcy litigation and, in particular, the intersection of chapter 11 bankruptcy and complex securities litigation, to monitor Aegean’s Bankruptcy Action and to assist Lead Counsel in protecting the interests of class members.

32. As described more fully in the Declaration of Michael S. Etkin in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, dated August 9, 2022 (“Etkin Declaration” or “Etkin Decl.”), a true and copy of which is attached hereto as **Exhibit 4**, Lead Counsel and Bankruptcy Counsel took a number of steps to protect the interests of Settlement Class in the Bankruptcy Action.

33. First, among other matters, Aegean included a third-party release (the “Third-Party Release”) as part of its initially proposed plan of reorganization (the “Chapter 11 Plan”). This Third-Party Release would have stripped Lead Plaintiff and the proposed class of their likely main or only source of compensation—the instant Action. Among other terms harmful to the Settlement Class, the Third-Party Release purported to release the direct claims of the Settlement Class against numerous, solvent non-debtor defendants, which would have included third parties such as Aegean’s former independent auditors—*i.e.*, the Settling Defendants. Etkin Decl. ¶¶5-10.

34. Second, the Chapter 11 Plan did not disclose whether, or to what extent, the claims of Lead Plaintiff and the class would be preserved to the extent of available insurance coverage from the directors and officers (“D&O”) policies, or whether the insurance policies would cover the securities claims at all. The Chapter 11 Plan also purported to permit the Litigation Trustee to “pursue any and all insurance proceeds under any and all D&O Liability Insurance Policies available to any defendant(s) in connection with the Litigation Claims in order to satisfy any settlement or judgment obtained by the Litigation Trust in respect of such claims,” but failed to provide Lead Plaintiff and the proposed class with equivalent rights. Etkin Decl. ¶¶9-10.

35. To the protect the interests of the Settlement Class, Lead Plaintiff, through Lead Counsel and Bankruptcy Counsel, filed a lengthy objection to the approval of the disclosure statement and vote solicitation procedures for Aegean's proposed plan on numerous grounds, which included objecting to the legal permissibility of the Third-Party Release, and explicitly preserving any available rights to insurance proceeds for the class. Etkin Decl. ¶10.

36. Ultimately, at Lead Counsel's direction and oversight, Bankruptcy Counsel successfully: (a) opposed Aegean's efforts through the Bankruptcy Action to release all investors' claims under the federal securities laws, which would have included those against other third parties such as the Settling Defendants; (b) negotiated and ultimately obtained Bankruptcy Court approval of a complete carve-out of Settlement Class Members' claims from the proposed sweeping release language; (c) obtained modifications to the plan of reorganization, preserving Lead Plaintiff's right to assert its claims to the proceeds from the D&O policies, which insurance would be applicable to claims against certain of Aegean's officers and directors, such as Gianniotis; and (d) preserved the rights of Lead Plaintiff, on behalf of the Settlement Class, to pursue and obtain discovery after confirmation of the Chapter 11 Plan. *See generally* Etkin Decl.

E. Discovery

37. On July 12, 2021, Settling Defendants and Non-Settling Defendants filed their answers. ECF Nos. 300-04.

38. Counsel for the parties engaged in protracted negotiations regarding the proposed protective orders and discovery protocols. Indeed, Lead Plaintiff submitted a pre-motion letter to the Court regarding an anticipated motion for entry of Lead Plaintiff's proposed protective order (ECF No. 315) when, after the parties had spent weeks negotiating, Defendants Melissanidis and Gianniotis suddenly insisted on raising a new edit to the parties' draft stipulated and proposed protective order that would have excluded discovery materials produced by non-parties from the protective order. After a hearing, the Court approved Lead Plaintiff's form of order. ECF No. 336. On May 4, 2022 the Court issued the Joint Discovery Protocol. ECF No. 358.

39. Initial disclosures were exchanged on September 2, 2021 and September 3, 2021.

40. The parties submitted a Joint Report of Rule 26(f) Conference and Proposed Discovery Plan on September 14, 2021. ECF No. 310. In response to the Court's October 7, 2021 letter, the Parties submitted a further Joint Report on November 5, 2021. ECF No. 326.

41. Discovery is ongoing as to the Non-Settling Defendants.

1. Party Discovery

(a) Discovery Propounded by Plaintiff to Defendants

42. Lead Plaintiff actively engaged (and continues to engage) in discovery.

43. On October 8, 2021, and as corrected on October 18, 2021, Lead Plaintiff served its first set of document requests on Defendant Deloitte Greece, which submitted its objections and responses on November 17, 2021.

44. On October 8, 2021, Lead Plaintiff served its first set of document requests on Defendant Melissanidis, who submitted his objections and responses on November 8, 2021.

45. On October 21, 2021, Lead Plaintiff served its first set of document requests on Defendant Gianniotis. Gianniotis submitted his objections and responses on November 22, 2021.

46. Lead Plaintiff's document requests prompted extensive "meet and confer" sessions with Defendants Gianniotis and Melissanidis over the scope and manner of production.

47. On March 31, 2022, Lead Plaintiff served its first set of Interrogatories on Defendant Gianniotis. Gianniotis submitted his objections and responses on May 2, 2022.

48. Gianniotis and Melissanidis have produced some documents to date.

(b) Lead Plaintiff's Responses to Defendants' Discovery Requests

49. Lead Plaintiff has also actively responded to discovery.

50. On April 12, 2022, Gianniotis served his first set of document requests on Lead Plaintiff. Lead Plaintiff filed its timely responses and objections May 12, 2022. Gianniotis's requests spawned a series of conferences to negotiate the scope of Lead Plaintiff's production.

51. Lead Plaintiff has conducted an extensive search, which involved multiple staff members, and has produced over 13,800 pages of responsive documents.

2. Non-Party Discovery/On-Going Investigations

52. Lead Counsel served numerous subpoenas and reviewed documents from non-parties, including some of the Dismissed Defendants, that Lead Counsel believe have information relevant to Lead Plaintiff's claims. To date, Lead Counsel have served 14 subpoenas and have engaged and continue to engage in extensive meet and confers regarding these subpoenas.

53. To date, Defendants and third parties have produced over 174 gigabytes of data, representing over 840,000 pages, which are being reviewed by Lead Counsel. Lead Counsel expects further productions.

F. Negotiations and Settlements with the Settling Defendants

54. Lead Counsel devoted significant effort to negotiate the Partial Settlements, which efforts included analysis of the risks of establishing the Settling Defendants' liability, the specific defenses raised by the Settling Defendants and issues of recoverable damage from the Settling Defendants.

55. In Summer 2021, following the Court's hearing on the motions to dismiss and the Court's denial of PwC Greece's and Deloitte Greece's joint motion to dismiss, counsel for Lead Plaintiff and PwC Greece's Counsel began good-faith negotiations with an eye toward reaching a potential settlement which would release claims against PwC Greece and the PwC Greece Released Parties. In particular, the negotiations of the PwC Greece Settlement involved several months of direct communication between highly experienced securities litigators, Joseph J. Tabacco, Jr. of Berman Tabacco⁶ on behalf of Lead Plaintiff, and Michael Bongiorno of WilmerHale⁷ on behalf of PwC Greece, each of whom has decades of securities litigation class action experience.

56. On August 26, 2021, following numerous rounds of negotiation, an agreement in principle was reached to settle all claims asserted by Lead Plaintiff in this this Action against PwC

⁶ See <https://www.bermantabacco.com/professionals/joseph-tabacco>.

⁷ See <https://www.wilmerhale.com/en/people/michael-bongiorno>.

Greece for the exchange of mutual releases, \$14.9 million in cash and an agreement by PwC Greece to produce relevant documents, including audit workpapers, in a form and manner that renders them authentic business records. *See* PwC Greece Stipulation ¶4.6 (ECF No. 351-2).

57. On November 9, 2021, Lead Plaintiff filed a motion for preliminary approval of the PwC Greece Settlement. ECF Nos. 327-30.

58. In Fall 2021, counsel for Lead Plaintiff and Deloitte Greece's Counsel likewise began good-faith negotiations with an eye toward reaching a potential settlement which would release claims against Deloitte Greece and the Deloitte Greece Released Parties. In particular, the negotiations of the Deloitte Greece Settlement involved several months of direct communication between highly experienced securities litigators, Joseph J. Tabacco, Jr. of Berman Tabacco, on behalf of Lead Plaintiff, and Thomas N. Kidera of Orrick, Herrington & Sutcliffe LLP⁸ on behalf of Deloitte Greece, each of whom has over a decade or more of securities litigation class action experience.

59. On December 22, 2021, following numerous rounds of negotiation, an agreement in principle was reached to settle all claims asserted by Lead Plaintiff in this Action against Deloitte Greece for the exchange of mutual releases, \$14.9 million in cash and an agreement by Deloitte Greece to produce relevant documents, including audit workpapers, in a form and manner that renders them authentic business records. *See* Deloitte Greece Stipulation ¶4.6 (ECF No. 351-3).

60. Counsel for the Settling Defendants zealously fought Lead Plaintiff's claims but, notwithstanding this formidable opposition, Lead Counsel was nonetheless able to develop Lead Plaintiff's case so as to resolve the litigation on terms highly favorable to the Settlement Class.

61. As noted, each of the attorneys involved in the negotiation and settlement process had the requisite skill, knowledge and experience to evaluate the merits of the Partial Settlements. In addition, staff counsel for URS was intimately involved and in frequent consultation with Lead

⁸ *See* <https://www.orrick.com/en/People/E/3/B/Thomas-Kidera>.

Counsel at every material step of the settlement negotiations and with respect to the instant motion before the Court.

62. After the agreements in principle were reached, the Settling Parties diligently negotiated and prepared comprehensive settlement papers to notice both Partial Settlements together and Lead Counsel worked with a damages expert on the plans for allocating the two Net Settlement Funds (defined below).

63. The Court granted preliminary approval of the Partial Settlements on June 3, 2022 and the Partial Settlement Funds have since been deposited into separate escrow accounts on July 14 and 22, 2022.

IV. Risks Faced by Lead Plaintiff in the Action

64. Given the risks of litigation and the fact that, even where a plaintiff's case appears strong, there is no guarantee against a defense verdict, Lead Counsel believes that the proposed Partial Settlements are fair, reasonable, adequate and in the best interest of the Settlement Class.

65. Indeed, while Lead Counsel believes that the claims asserted against the Settling Defendants have merit, they recognize the risks and challenges to establishing liability against the Settling Defendants (including falsity, materiality, scienter and loss causation), particularly since the Settling Defendants are two foreign, independent auditors.

66. In particular, the Settling Defendants here contended, *inter alia*, that (a) Aegean management was responsible for the preparation of the Company's financial statements, and that they relied on management's representations; (b) the Company's management perpetrated and concealed the alleged financial fraud, including from the Settling Defendants, through various means including the falsification and forging of records such as bank statements, audit confirmations, contracts, invoices and third-party certifications, as the Company later admitted; (c) the red flags alleged in the Complaint were either unknown to them or widely known and insufficient to put them on notice that the Company was engaged in fraud; and that (d) their audit opinions were mere statements of opinion that are only actionable if Lead Plaintiff establishes that they believed that their opinions were false or omitted materials about their audits. *See*

ECF No. 188 at 11-34, 39-40; ECF No. 301 (6th, 8th, 10th, 12th, 17th, 19th-23rd, 34th-36th, 41st, 42nd Affirm. Defenses); ECF No. 302 (1st, 4th, 5th, 7th-8th, 10th, 13th, 15th-18th, 20th, 26th, 27th-30th, 32nd, 36th Affirm. Defenses).

67. The Settling Defendants also likely would have argued that Lead Plaintiff could not establish that the Settling Defendants had the requisite intent or that they failed to conduct their audits in accordance with the applicable standards of their profession. The Settling Defendants would also likely have argued that, even if liable, the Company Defendants would be far more liable, given the admission by the Company that its management was liable and had falsified records and that the Settlement Class relied on the Company Defendants, not the Settling Defendants. ECF No. 301 (19th-21st Affirm. Defenses); ECF 302 (13th 15th-18th, 29th-30th-32nd Affirm. Defenses). In addition, the Settling Defendants also would have contended that all or a portion of the alleged damages to the Settlement Class were caused by factors other than the allegedly false or misleading statements or omissions and that such damages are thus not recoverable.

68. Moreover, I anticipate that each of the Settling Defendants would have raised arguments specific to each of them, including the following: (a) Deloitte Greece would have argued, for example, that many of the alleged red flags only appeared after it audited the Company's 2015 year-end financials and thus Lead Plaintiff cannot establish that it acted with scienter; (b) that Deloitte-Greece would have contended that, even assuming Lead Plaintiff were to have established that Deloitte Greece acted with scienter, it still would not have been liable to investors who purchased Aegean Securities after PwC Greece issued its audit opinion for Aegean's 2016 year-end financials because PwC Greece's audit constituted an intervening act (ECF No. 302 (18th, 30th, 36th Affirm. Defenses)); (c) Deloitte-Greece would have also argued that claims related to purchases prior to the issuance of its audit opinions for FY 2013 were time-barred (ECF No. 302 (27th, 36th Affirm. Defenses)); and (d) PwC Greece would have argued, *inter alia*, that the fraud had been ongoing for years prior to its auditing work for Aegean, thus, it bore little to no liability for the alleged fraud (ECF No. 301 (20th, 22nd, 41st-42st Affirm. Defenses)).

69. Moreover, resolution of many issues would involve various “battles of the experts,” with the concomitant risk that the jury could credit the Settling Defendants’ experts over Lead Plaintiff’s experts. These include issues related the Company’s accounting, the Settling Defendants’ alleged liability as an independent auditor, loss causation and damages issues.

70. I believe that the Settling Defendants would also argue that any judgment against them must be further reduced pursuant to the proportional liability provisions of the federal securities laws. Specifically, the Settling Defendants would likely assign all or most of the fault to others, such as Aegean and its officers and directors, and may therefore argue that they are entitled to a judgment credit of at least the proportionate fault of the Non-Settling Defendants. *See* 15 U.S.C. § 78u-4(f)(2)(B). If successful, these defenses could substantially reduce or eliminate any recovery against the Settling Defendants.

71. Lead Counsel also considered the heightened challenges and difficulties in establishing liability against or collecting from foreign nationals and the substantial risks, burdens and expenses involved in further litigation of this Action through trial and appeals against the Settling Defendants, including (a) gathering documentary evidence, much of which would have been written in Greek and located in Greece, or otherwise in Luxembourg, Cyprus or the Marshall Islands, countries where the Litigation Trustee has instituted proceedings and/or where Aegean-related entities are believed to be domiciled; (b) the fact that Settling Defendants and others would have likely asserted privileges under Europe’s recently enacted privacy and security law, the General Data Protection Regulation (GDPR), to withhold or redact documents; (c) the costly and time-consuming nature of translating relevant documents obtained in discovery and deposing witnesses abroad, including through the Hague Convention; and (d) the difficulty of enforcing of any judgment obtained against foreign defendants. Thus, the foreign nature of these proceedings raises an additional barrier not usually confronted in complex securities litigation with U.S. based companies, defendants and auditors and is an additional “weight on the scale” in favor of approval.

72. In addition, success at trial could entail further complex proceedings to enforce a U.S. judgment in Greece since these Settling Defendants are Greek auditors and residents, and the

U.S.-based firms of PwC US and Deloitte US have steadfastly denied control over or liability for the Settling Defendants. Specifically, in their joint memorandum of law in support of their motions to dismiss, Deloitte US and PwC US each argued that they are legally separate and independent entities from the other entities within the international network of companies sharing their respective brand names, and that they are liable only for their own acts or omissions. ECF No. 184 at 3-4.

73. In addition, Lead Counsel considered the other attendant risks of litigating a complex securities class action, including (a) the possibility that a class may not be certified; (b) a possible adverse judgment; (c) discovery disputes; (d) disputes between experts on complex financial accounting and auditing matters as well as loss causation and damages; (e) a lengthy trial; and (f) appeals.

74. Lead Counsel has considered the uncertain outcome of trial and appellate risk in complex lawsuits like this one. Lead Counsel believes that the case against the Settling Defendants is very robust, the fact remains that the Court at class certification, summary judgment or trial could find the Settling Defendants' defenses persuasive, which could significantly reduce or eliminate recoverable damages.

75. Given the foregoing, Lead Plaintiff and Lead Counsel believe that the Partial Settlements provide a substantial benefit now, namely the payment of \$29.8 million (\$14.9 million from each Settling Defendant) (less the various deductions described in the Omnibus Notice), as well as the agreement of the Settling Defendants to provide documents as detailed in the Settling Defendants' respective Stipulations (including by providing certain audit workpapers), as compared to the risk that the claims asserted in the Complaint would produce a similar, smaller or no recovery from these Settling Defendants after summary judgment, trial and appeals, possibly years in the future.

76. In light of the risks of collecting any sums after a trial as compared to the amount certain provided to the Settlement Class by way of the Partial Settlement Funds agreed to in the

Partial Settlements, Lead Counsel (and Lead Plaintiff as set forth in the Lead Plaintiff Decl. ¶7⁹) believe that the proposed Partial Settlements are fair, reasonable and adequate, in the best interests of the Settlement Class, and therefore warrant Court approval. Lead Plaintiff Decl. ¶7.

V. The Proposed Partial Settlements and Plans of Allocation

77. Lead Counsel believes that the Partial Settlement Amounts here are particularly excellent in comparison with typical auditor settlement amounts. A study of auditor settlements from 1996-2016 found that the mean auditor settlement value was \$8.44 million. *See* Colleen Honigsberg, Shivaram Rajgopal & Suraj Srinivasan, *The Changing Landscape of Auditors' Liability*, 63 J.L. & Econ. 367, 387-88 (2020). Thus, when compared to the risk that the claims asserted in the Complaint would produce a similar, smaller or no recovery after summary judgment, trial and appeals, possibly years in the future, the Partial Settlements are adequate.

78. Here, Lead Plaintiff's damages consultant estimates that total alleged Section 10(b) damages for purchases of the Aegean common stock and notes were approximately \$349.6 million for the entire Settlement Class Period. Thus, the \$29.8 million total proposed Partial Settlements, represents approximately 8.5% of the estimated total alleged damages.

79. These Partial Settlements are well within the reported values for securities fraud class actions. For example, Cornerstone Research's data¹⁰ shows that the median settlement as a percentage of damages in cases involving accounting issues (including GAAP violations, restatements and accounting irregularities) between 2012 and 2021 was between 5.2% and 7.2%. *See Ex. 7*, at 9. Cornerstone Research also estimates that median settlements as a percentage of "simplified tiered damages" in Rule 10b-5 cases since 2012 have ranged between 4.1% and 4.9%

⁹ Attached hereto as **Exhibit 5** is a true and correct copy of the Declaration of Kevin Catlett on Behalf of Utah Retirement Systems in Support of (A) Lead Plaintiff's Motion For: (I) Final Approval of The Proposed Partial Class Action Settlements With PricewaterhouseCoopers Auditing Company S.A. and Deloitte Certified Public Accountants, S.A.; (II) Final Certification of The Settlement Class; and (III) Final Approval of The Proposed Plans of Allocation; and (B) Lead Counsel's Motion For Attorneys' Fees and Reimbursement of Litigation Expenses and the Establishment of a Litigation Expense Fund ("Lead Plaintiff Declaration" or "Lead Plaintiff Decl.").

¹⁰ A true and correct copy of an excerpt from Cornerstone Research's *Securities Class Action Settlements: 2021 Review and Analysis*, authored by Laarni T. Bulan and Laura E. Simmons and published in 2022, is attached hereto as **Exhibit 7** ("Cornerstone Research Report").

for cases with estimated damages of between \$250 million to \$499 million and that the median settlement dollars for all securities fraud cases from 2017 to 2021 following rulings on motions to dismiss, but before rulings on class certification, is \$4.8 million. *Id.* at 6 and 14. Moreover, the Second Circuit’s median recovery is 5.1% of damages according to the same report.¹¹ *Id.* at 19.

80. Additionally, the Partial Settlements are separate and apart from any judgment or settlement that Lead Plaintiff may achieve with Non-Settling Defendants Melissanidis and Gianniotis.

81. This Action provides the Settlement Class with a recovery against the independent auditors where none other appears likely. Indeed, the Litigation Trustee in the Bankruptcy Action has not commenced proceedings against the Settling Defendants, which would be particularly challenging since Aegean’s retention agreements with the Settling Defendants provide that any dispute must be litigated in Greece. *See* ECF Nos. 249-5 and 249-6. The instant Action is therefore likely to be the sole source remaining of recovery for the Settlement Class. *See* Etkin Decl. n.1.

82. In sum, I believe that the \$29.8 million in cash recovery now (\$14.9 million each from PwC Greece and Deloitte Greece), particularly when viewed in the context of the risks, costs, delay and uncertainties of further proceedings, weighs in favor of preliminary approval of the Partial Settlements.

83. Lead Counsel also worked closely with its damage consultant to prepare the PwC Greece Net Settlement Fund (the “PwC Greece Plan of Allocation”) and the Deloitte Greece Net Settlement Fund (the “Deloitte Greece Plan of Allocation”),¹² which are each referenced in the Omnibus Notice and set forth at www.AegeanSecuritiesLitigation.com.

84. There are two separate Plans of Allocation here because the PwC Greece Settlement Fund is only for the benefit of Settlement Class Members who purchased shares between May 17,

¹¹ In its reports, Cornerstone Research applies what it refers to as “simplified tiered damages” as a measure of potential shareholder losses “that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.”

¹² Together, the PwC Greece Plan of Allocation and the Deloitte Greece Plan of Allocation will be referred to herein as the “Plans of Allocation.” Similarly, when referenced together, the PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund will be referred to herein as the “Net Settlement Funds.”

2017 and November 5, 2018 whereas the Deloitte Greece Settlement Fund is on behalf of all Settlement Class Members. Indeed, because PwC Greece is not alleged to have issued any false or misleading statements until May 16, 2017, there could be no alleged recognized losses attributable to PwC Greece for securities purchased prior to the issuance of PwC Greece's May 16, 2017 audit opinions. By contrast, because Deloitte Greece is alleged to have issued false or misleading statements starting prior to the Settlement Class Period, Settlement Class Members allegedly have potential recognized losses attributable to Deloitte Greece for Aegean Securities purchased throughout the Settlement Class Period. Accordingly, Settlement Class Members who purchased Aegean Securities before May 17, 2017 and held through a partial disclosure will only be entitled to participate in the Deloitte Greece Settlement whereas Settlement Class Members who purchased Aegean Securities after May 16, 2017 and held through a partial disclosure will be entitled to participate in both the PwC Greece Settlement and the Deloitte Greece Settlement.

85. Under the Plans of Allocation, the Net Settlement Funds will be distributed to Authorized Claimants on a *pro rata* basis, based on the relative size of their Recognized Claims, taking into account when they purchased, acquired and/or sold Aegean Securities. Specifically, a "Distribution Amount" will be calculated for each Authorized Claimant, which will be the Authorized Claimant's Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amounts in the Net Settlement Funds. If any Authorized Claimant's Distribution Amount calculates to less than \$10, it will not be included in the calculation and no distribution will be made to that Authorized Claimant. The computations under the Plans of Allocation are only a method to weigh, in a fair and equitable manner, the claims of Authorized Claimants against one another for the purpose of making *pro rata* allocations of the Net Settlement Funds. Thus, I am informed and believe, based on conversations with Lead Plaintiff's damages consultant, that the Plans of Allocation provide an equitable and reasonable method for calculating an Authorized Claimant's Recognized Loss Amount and distributing the Net Settlement Funds among Authorized Claimants who suffered economic losses as a result of PwC Greece's and/or Deloitte Greece's alleged misconduct.

86. In developing the Plans of Allocation, Lead Plaintiff's damages consultant calculated the estimated amount of alleged artificial inflation in each of the Aegean Securities purchased or acquired within the Settlement Class Period that were allegedly proximately caused by PwC Greece's and/or Deloitte Greece's alleged misconduct. They apportion the PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund equitably among Settlement Class Members.

87. In this Action, Lead Plaintiff alleges that the corrective information (referred to as a "corrective disclosure") related to the claims asserted against PwC Greece was released to the market on February 20, 2018; June 4, 2018; November 2, 2018 and November 6, 2018, thereby impacting the prices of Aegean Securities on February 21, 2018; February 22, 2018; June 5, 2018; November 5, 2018; November 6, 2018 and November 7, 2018. Thus, in order to have a "Recognized Loss Amount" under the PwC Greece Plan of Allocation for the PwC Greece Settlement, Aegean Securities must have been purchased or otherwise acquired during the period between May 17, 2017 and November 5, 2018, inclusive ("PwC Greece Relevant Period"), and held through the issuance of at least one corrective disclosure.

88. Lead Plaintiff alleges that the corrective disclosure related to the claims asserted against Deloitte Greece was released to the market on December 14, 2016; February 20, 2018; June 4, 2018; November 2, 2018; and November 6, 2018; thereby impacting the prices of Aegean Securities on December 14, 2016; February 21, 2018; February 22, 2018; June 5, 2018; November 5, 2018; November 6, 2018; and November 7, 2018. Thus, in order to have a "Recognized Loss Amount" under the Deloitte Greece Plan of Allocation for the Deloitte Greece Settlement, Aegean Securities must have been purchased or otherwise acquired at any point during the Settlement Class Period (during the period between February 27, 2014 and November 5, 2018, inclusive) and held through the issuance of at least one corrective disclosure.

VI. Lead Plaintiff's Compliance with the Court's Preliminary Approval Orders Requiring Issuance of the Omnibus Notice of the Partial Settlements to Settlement Class Members

89. I am informed and believe that, pursuant to this Court's June 3, 2022 Preliminary Approval Orders, which certified the Settlement Class for purposes of the Partial Settlements, approved notice to the Settlement Class and appointed A.B. Data as Claims Administrator in the Action (ECF Nos. 361-62), the Claims Administrator has widely disseminated notice of these Partial Settlements to potential Settlement Class Members.

90. Lead Counsel worked closely with the Claims Administrator to ensure that notice of the Partial Settlements were properly given to the Settlement Class Members. Attached hereto as **Exhibit 6** is a true and correct copy of the Declaration of Jack Ewashko Regarding Mailing of Notice and Publication of Summary Notice, dated August 8, 2022 ("A.B. Data Declaration" or "A.B. Data Decl."). The following is a summary of A.B. Data's actions to date.

91. As detailed in the A.B. Data Declaration, A.B. Data mailed a total of 41,879 Omnibus Notices and Claim Forms (collectively, "Notice Packets"), to potential Settlement Class Members by mailing the Notice Packets to (a) banks, brokerage firms and other third-party nominees listed on their proprietary database, referred to as the Record Holder Mailing Database; (b) the additional holders or Depository Trust Participants listed on the holder records for each of the Aegean Securities provided by the various transfer agents; and (c) additional nominees as requested by the banks and brokerage firms or others. *See* A.B. Data Decl. ¶¶2-14.

92. A.B. Data also caused the securities clearing agency, the Depository Trust Company ("DTC"), to post the Omnibus Notice on the DTC's Electronic Legal Notice System ("LENS") (A.B. Data Decl. ¶8) and, on June 27, 2022, A.B. Data caused the Summary Notice to be published in *Investor's Business Daily* and to be transmitted over *PR Newswire* (*id.* ¶15).

93. A.B. Data also posts information regarding the Partial Settlements on a dedicated website established for the Action, www.AegeanSecuritiesLitigation.com, to provide Settlement Class Members with information concerning the Partial Settlements, as well as downloadable copies of the Omnibus Notice, Stipulations and other relevant documents. A.B. Data Decl. ¶17.

94. A.B. Data also established and continues to maintain a case-specific, toll-free telephone helpline, 1-877-888-9760, with an interactive voice response system and live operators, to accommodate potential Settlement Class Members with questions about the Action and the Partial Settlements. A.B. Data Decl. ¶16.

95. In addition, Lead Counsel has provided a link to www.AegeanSecuritiesLitigation.com on its website.¹³

96. The Omnibus Notice apprised Settlement Class Members of the nature and pendency of the Action, the definition of the Settlement Class to be certified, the class claims and issues and the claims that will be released. In addition, the Court-approved Omnibus Notice includes all the information required by Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(7), including: (a) the consideration provided by the Partial Settlements; (b) a description of the amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis; (c) a statement of the potential outcome of the case, including that the Settling Parties disagree as to the amount of damages and a statement of Lead Plaintiff’s estimated average amount of recovery per share; (d) a statement of attorneys’ fees or costs sought; (e) identification and contact information for Lead Counsel; (f) a description of the reasons for the Partial Settlements; (g) an explanation of the rights of Settlement Class Members to participate in the Partial Settlements, object to any aspect of the Partial Settlements, the Plans of Allocation and/or the Fee and Expense Application, or exclude themselves from the Partial Settlements; (h) the dates and deadlines for certain Partial Settlement-related events; (i) a reference to the Plans of Allocation posted at www.AegeanSecuritiesLitigation.com and the rationale for the Plans of Allocation; (j) an explanation how to submit Claim Forms, object or opt out of the Partial Settlements and the timing needed to do so; and (k) a statement that the Claims Administrator will maintain a toll-free number to answer questions as well as maintain a website where, among other

¹³ See <https://www.bermantabacco.com/case/aegean-marine-petroleum-network-securities-litigation/>.

things, key pleadings in this case may be viewed. The Omnibus Notice specifically informed recipients that Lead Counsel intended to apply for an award of attorneys' fees not to exceed twenty-five percent (25%) of the Partial Settlement Amount, reimbursement of expenses in an amount not to exceed \$380,000.00, including reimbursement of Lead Plaintiff's expenses and for the establishment of a Litigation Expense Fund. A.B. Data Decl. Ex. A.

97. Pursuant to the terms of the Preliminary Approval Orders, the deadline for Settlement Class Members to request exclusion or submit objections to the Partial Settlements, Fee and Expense Application is August 23, 2022.

98. To date, Lead Counsel has not received any objections or requests for exclusion. Should any objections or requests for exclusion be received, Lead Plaintiff will address them in its reply papers, which are due September 6, 2022. I am informed and believe that A.B. Data has not received any objections or requests for exclusion either. A.B. Data Decl. ¶¶18-21.

VII. Application for Attorneys' Fees, Reimbursement of Counsel' Expenses, Award to Lead Plaintiff and the Establishment of a Litigation Expense Fund

A. Lead Counsel's Request for Attorneys' Fees

99. Lead Counsel requests attorneys' fees of 25% of the Partial Settlements, or \$7,450,000, on behalf of itself and on behalf of Bankruptcy Counsel.

100. As described above and in the memorandum of law in support of the Fee and Expense Application, filed contemporaneously herewith, the 25% fee is comparable to attorneys' fees awarded in securities class actions and the lodestar multiplier of 077, based on the 12,838.6 hours expended by Lead Counsel and Bankruptcy Counsel, is below the range of multipliers commonly awarded in complex common fund class action settlements.

101. Moreover, the fee request is justified by the effort and skill of Lead Counsel (with the able assistance of Bankruptcy Counsel) in, among other things, investigating the claims asserted in the Action, drafting the Complaint, opposing the Settling Defendants' motions to dismiss, protecting the Settlement Class Members' Claims in the Bankruptcy Action and presenting a strong case throughout settlement discussions, which was essential to achieving a

meaningful resolution of the Action. Lead Counsel has national standing and extensive experience in litigating securities and other complex class actions and has recouped billions of dollars for investors in securities class actions since the enactment of the PSLRA. *See* **Ex. 3**. And, Bankruptcy Counsel has significant experience in the realm of bankruptcy law and proceedings, including chapter 11 bankruptcy cases of issuers of publicly traded securities that are the subject of pending securities litigation such as this Action. *See* **Ex. 4**. Additionally, Lead Counsel's assessment of the fee request as fair and reasonable and is supported by Berman Tabacco's decades of experience litigating and resolving securities class actions, and its intimate familiarity with the facts in the case.

102. As one of the lead partners on this Action, I reviewed Berman Tabacco's time and expense records in preparation of this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the Action, including in the Bankruptcy Case. In addition, all time expended in preparing this Fees and Expense Application has been excluded.

103. Attached hereto as **Exhibit 1** is a summary table of the hours expended and the hourly rates of all Berman Tabacco counsel, along with the lodestar calculation. For personnel who are no longer employed by Berman Tabacco, the calculation is based upon the billing rates for such personnel in their final year of employment with Berman Tabacco. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my Firm.

104. The hourly rates for attorneys and professional support staff in my firm have been accepted by courts in other complex class actions. *See, e.g., Koch v. Healthcare Servs. Grp., Inc., et al.*, No. 2:19-CV-01227-ER (E.D. Pa. Jan. 12, 2022), ECF No. 83; *In re Aqua Metals, Inc. Sec. Litig.*, No. 4:17-cv-07142-HSG (N.D. Cal. Mar. 2, 2022), ECF No. 182; *Okla. Police Pension & Ret. Sys. v. Sterling Bancorp, Inc, et al.*, No. 5:20-CV-10490-JEL-EAS (E.D. Mich. Sept. 23, 2021), ECF No. 98; *In re Alphabet Inc. S'holder Deriv. Litig.*, No. 19CV341522 (Cal. Super. Ct. Santa Clara Cty. Feb. 5, 2021); *In re GSE Bonds Antitrust Litig.*, No. 19-CV-1704 (JSR), 2020 WL 3250593, at *4-5 (S.D.N.Y. June 16, 2020).

105. Attached as Exhibit A-1 to the Etkin Declaration is a summary table of the hours expended and the hourly rates of Lowenstein counsel and professional support staff employee who devoted time to the Action.

106. Lead Counsel undertook significant risk in prosecuting the action entirely on a contingent basis, receiving no compensation during the time the Action has been pending, and was never guaranteed payment of any fee. Nevertheless, Lead Counsel prosecuted this case vigorously, provided high-quality legal services and achieved a great result for the Settlement Class in these Partial Settlements. In addition, the risks and challenges assumed by Lead Counsel in bringing these claims to a successful conclusion and the time and expenses incurred without any payment, were extensive. In circumstances such as these, and in consideration of Lead Counsel's hard work and the extraordinary result achieved, the requested 25% fee is reasonable and should be approved.

107. Lead Plaintiff supports Lead Counsel's application for award of attorneys' fees of 25% of the Partial Settlement Funds, plus interest, for the time expended by Lead Plaintiff and for time expended by Lowenstein. Lead Plaintiff Decl. ¶¶8, 10.

108. Moreover, this 25% fee request is consistent with the fee agreement between Lead Counsel and URS entered into at the outset of the litigation.

109. Lead Counsel request that the award of attorneys' fees and Litigation Expenses be allocated proportionally between the PwC Greece Settlement Fund (50% of Court awarded fees and expenses) and the Deloitte Greece Settlement Fund (50% of the Court awarded fees and expenses).

B. Lead Counsel's Request for Reimbursement of Litigation Expenses

110. Lead Counsel also seeks reimbursement from the Settlement Funds of \$350,318.76 in litigation expenses reasonably and necessarily incurred by Lead Counsel in connection with commencing and prosecuting this Action through June 2022.

111. Attached hereto as **Exhibit 2** is a summary table of the expenses of Berman Tabacco incurred in connection with the prosecution of the Action. Attached as Exhibit A-2 to the Etkin Declaration is a summary table of the expenses that Lowenstein incurred in connection

with the prosecution of the Action. My firm has reimbursed Lowenstein for its expenses and those expenses are included in Berman Tabacco's expense summary under the "Experts & Consultants" category.

112. The types of expenses for which Lead Counsel seeks reimbursement were necessarily incurred in this Action and are of the type routinely charged to classes in contingent litigation, including expenses associated with, *inter alia*, research, and auditing and damages consultants. These expenses are reflected on the books and records maintained by Lead Counsel. These books and records are prepared from expense vouchers, check records and other source materials, and are an accurate record of the expenses incurred. These expenses are set forth in detail and identified by the specific category of expense—*e.g.*, online/computer research, experts' fees, photocopying, telephone, fax and postage expenses and other costs incurred for which Lead Counsel seeks reimbursement.

113. Of the total amount of expenses, \$212,160.87 was expended on experts and consultants. Another large component of the litigation expenses was for online legal and factual research, and factual and investigatory research. These legal and factual charges amounted to \$61,880.88. The other expenses for which Lead Counsel seek reimbursement are the types of expenses that are necessarily incurred in litigation and routinely charged to clients billed by the hour. These expenses include, among others, court fees, copying costs, long distance telephone and facsimile charges, and postage and delivery expenses. *See Ex. 2.*

114. From the beginning of the case, Lead Counsel was aware that it might not recover any of their expenses and, at the very least, would not recover anything until the Action was successfully resolved. Thus, Lead Counsel were motivated to, and did, take significant steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of the case. All of the litigation expenses incurred, which total \$350,318.76, were necessary to the successful prosecution and resolution of Lead Plaintiff's claims.

115. Lead Plaintiff supports the reimbursement of expenses incurred by counsel as fair, reasonable and necessary to the successful prosecution and resolution of this Action. Lead Plaintiff Decl. ¶¶8, 10.

C. Reimbursement to Lead Plaintiff is Fair and Reasonable

116. The PSLRA specifically provides that an “award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class” may be made to “any representative party serving on behalf of a class.” 15 U.S.C. § 78u-4(a)(4). Accordingly, URS seeks reimbursement of its reasonable costs incurred directly for its work representing the Settlement Class in the amount of \$10,000. The amount of time and effort devoted to this Action by URS is detailed in the accompanying Lead Plaintiff Declaration, attached hereto as **Exhibit 5**, at ¶¶4-6.

117. As discussed in the Lead Plaintiff Declaration, URS has been fully committed to pursuing this Action from the outset, devoting its time to overseeing the litigation, reviewing pleadings and motions, participating in strategic decisions, attending the hearing on the motions to dismiss, participating in discovery including searching for and producing 13,800 pages of documents, consulting with counsel and actively participating in settlement negotiations. *See* Lead Plaintiff Decl. ¶¶4-6.

118. As a public pension fund and an institutional investor which manages more than \$40 billion in assets for over 240,000 beneficiaries, URS is precisely the type of class representative the PSLRA encouraged to step forward as a lead plaintiff. *See* Lead Plaintiff Decl. ¶¶1, 3; 15 U.S.C. § 78u-4(a)(3)(B) (providing a rebuttable presumption that plaintiff with largest financial interest is most adequate plaintiff that shall be appointed lead plaintiff). According to the House Conference Report on the PSLRA, “[t]he Conference Committee believes that increasing the role of institutional investors in class actions will ultimately benefit shareholders and assist courts by improving the quality of representation in securities class actions.” H.R. Conf. Rep. 104-369, 33 (1995) *reprinted in* 1995 U.S.C.C.A.N. 730, 732.

D. Lead Counsel Requests the Establishment of a Litigation Expense Fund

119. While these Partial Settlements will end the litigation against the Settling Defendants, Lead Plaintiff intends to continue to vigorously pursue its claims against the Non-Settling Defendants. Given the fact that this continued prosecution will require discovery of witnesses and documents overseas and translation of records Lead Counsel request the establishment of a Litigation Expense Fund in the amount of \$500,000 (\$250,000 from each Net Settlement Fund) to fund future expenses.

120. As noted above, the litigation to date has been very complex and has required the expenditure of significant resources of time and expenses. In particular, Lead Counsel has incurred (and are incurring) significant consultant and expert expenses to assist in preparing their case for trial. Lead Counsel expects those figures to significantly increase as merits discovery continues and expert discovery commences.

121. Lead Counsel anticipate that this Litigation Expense Fund will only cover a small portion of all future expenses and Lead Counsel fully intend to continue to expend a significant contribution of time and funds to the continued prosecution of this Action. The Litigation Expense Fund, however, will represent an investment by the Settlement Class in the future vigorous prosecution of this action against the more culpable, Non-Settling Defendants. While any case against individual defendants has heightened risks, particularly where, as here, they reside outside the United States, Lead Counsel believe that there is a reasonable likelihood of a substantial monetary recovery against either or both individuals and that having this additional “war chest” will substantially enhance those prospects.

122. As for the mechanics for maintaining this Litigation Expense Fund, Lead Counsel would set aside the Litigation Expense Fund as a separate, interest-bearing account. Lead Counsel would periodically withdraw funds from the Fund to pay for reasonable and necessary litigation costs and expenses. Lead Counsel anticipate the majority of these expenses would be for costs associated with foreign discovery and expert and consultant expenses. Lead Counsel will maintain a full accounting of all sums advanced from the Litigation Expense Fund and will submit quarterly

in camera summaries to the Court, detailing all withdrawals. Lead Counsel will submit a full accounting at the conclusion of the litigation. Lead Counsel would draw down on the Litigation Expense Fund to defray such expenses at their own risk. If at any time the Court determines that an expense advanced was unreasonable, Lead Counsel would be required to promptly reimburse the Litigation Expense Fund for such expenses.

123. Lead Plaintiff also believes that the establishment of a Litigation Expense Fund in the amount of \$500,000 would substantially assist with the costs associated with the continued pursuit of claims against the Non-Settling Defendants, and further endorses the establishment of a Litigation Expense Fund. Lead Plaintiff Decl. ¶¶9-10.

124. Lead Counsel request that \$250,000 of each Partial Settlement be placed in the 50% of \$500,000 Litigation Expense Fund.

E. The Reaction of the Settlement Class to the Requested Fee, Reimbursement of Expenses, Award to Lead Plaintiff and Establishment of Litigation Expense Fund

125. As noted, based on its involvement throughout the course of this Action, URS supports final approval of the settlement, Lead Counsel's Fee and Expense Application, including Lead Counsel's request for the establishment of a \$500,000 Litigation Expense Fund. *See* Lead Plaintiff Decl. ¶¶7-10.

126. As mentioned above, consistent with the Court's Preliminary Approval Orders, a total of 41,879 Notice Packets were mailed to potential Settlement Class Members advising them that Lead Counsel would (a) seek payment of up to 25% of the Partial Settlement Funds, or approximately \$7,450,000 for attorneys' fees; (b) seek reimbursement of expenses not to exceed \$380,000, including reimbursement of Lead Plaintiff's expenses pursuant to U.S.C. §78u-4(a)(4); and (c) may seek establishment of a litigation fund in amounts not to exceed \$2 million. *See* A.B. Data Decl. ¶14 & Ex. A. Additionally, the Summary Notice was published in *Investor's Business Daily*, and disseminated over *PR Newswire*. *See id.* ¶15 & Exs. B & C. The Omnibus Notice, the PwC Greece Stipulation (and the amendment thereto), the Deloitte Greece Stipulation, and other

relevant pleadings have also been available on the settlement website maintained by A.B. Data and a phone line set up to assist potential Settlement Class Members. *Id.* ¶¶16-17.

127. While the deadline set by the Court for Settlement Class Members to object to the Fee and Expense Application has not yet passed, to date we have not received any objections. *Id.* ¶21. We will respond to any objections received by the August 23, 2022 deadline in our reply briefing due September 6, 2022.

VIII. Conclusion

128. In view of the recovery to the Settlement Class and the very substantial risks of continued litigation against the Settling Defendants, as described above and in the accompanying memorandum of law in support of Lead Plaintiff's Final Approval Motion, Lead Counsel respectfully submits that the Partial Settlements should be approved as fair, reasonable and adequate.

129. In view of the recovery in the face of substantial risks, the quality of work performed, the risks and challenges to pursuing claims against the Settling Defendants, the contingent nature of the fee and the standing and experience of Lead Counsel and Bankruptcy Counsel, as described herein and in the accompanying memorandum of law in support of Lead Counsel's Fee and Expense Application, Lead Counsel respectfully requests that the request for attorneys' fees of 25% of the Partial Settlement Funds be approved, that Lead Counsel's litigation expenses in the amount of \$350,318.76 be reimbursed, that Lead Plaintiff's expenses of \$10,000 be reimbursed in full and that this Court establish a Litigation Expense Fund in the amount of \$500,000 for the continued prosecution of this Action.

130. Attached hereto are true and correct copies of the following documents:

Exhibit 1: Summary Table of the Hours and Lodestar of Berman Tabacco;

Exhibit 2: Summary Table of the Expenses of Berman Tabacco;

Exhibit 3: Berman Tabacco Firm Resume;

Exhibit 4: Etkin Declaration;

Exhibit 5: Lead Plaintiff Declaration;

Exhibit 6: A.B. Data Declaration; and

Exhibit 7: Cornerstone Research Report.

I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Executed at San Francisco, California, on August 9, 2022.

/s/ Nicole Lavallee

Nicole Lavallee

Exhibit 1

AEGEAN MARINE**TIME REPORT**

FIRM NAME: Berman Tabacco
 REPORTING PERIOD: Inception to June 30, 2022

NAME	STATUS	CURRENT HOURLY RATE	CUMULATIVE HOURS TO DATE	CUMULATIVE LODESTAR TO DATE
Bastien, Mackline	Staff Attorney	\$420.00	79.25	\$33,285.00
Becker, Kathy	Paralegal	\$410.00	1,046.50	\$429,065.00
Egan, Patrick	Partner	\$970.00	15.90	\$15,423.00
Elias, Victor	Associate	\$550.00	60.10	\$33,055.00
Eng, Jay	Of Counsel	\$890.00	660.40	\$587,756.00
Heffelfinger, Christopher	Partner	\$1,065.00	1,734.70	\$1,847,455.50
Houghton, James	Investigator	\$595.00	573.00	\$340,935.00
Lavallee, Nicole	Partner	\$1,065.00	1,385.50	\$1,475,557.50
Lee, Berna	Staff Attorney	\$420.00	89.30	\$37,506.00
Misra, Jessica	Financial Analyst	\$545.00	8.70	\$4,741.50
Moody, Kristin	Partner	\$970.00	872.80	\$846,616.00
Orenstein, Nathaniel	Partner	\$825.00	13.70	\$11,302.50
Pearson, Matthew	Partner	\$825.00	412.00	\$339,900.00
Poppler, Chowning	Associate	\$610.00	2,435.30	\$1,485,533.00
Rocha, Jeffrey	Associate	\$500.00	1,594.80	\$797,400.00
Scarsciotti, Jeannine	Financial Analyst	\$585.00	67.75	\$39,633.75
Segura, Beto	Paralegal	\$380.00	239.80	\$91,124.00
Smith, Danielle	Associate	\$585.00	609.80	\$356,733.00
Soboleva, Yelena	Paralegal	\$280.00	128.50	\$35,980.00
Stern, Leslie	Partner	\$1,040.00	52.50	\$54,600.00
Tabacco, Joseph	Partner	\$1,085.00	234.80	\$254,758.00
		TOTAL:	12,315.10	\$9,118,359.75

Exhibit 2

AEGEAN MARINE**EXPENSE REPORT**

FIRM NAME: Berman Tabacco

REPORTING PERIOD: Inception to June 30, 2022

<u>DESCRIPTION</u>	<u>CUMULATIVE EXPENSES</u>
Experts & Consultants	\$212,160.87 *
Filing Fees/Court Filing Retrieval Fees/transcript fees	\$1,449.27
Investigators (Foreign)	\$10,056.25
Legal Research (westlaw and secondary sources)	\$44,458.78
Mediation	\$5,000.00
Other Research (pacer/Bloomberg/investigative research)	\$7,365.85
Photocopying (external)	\$88.00
Photocopying (in house)	\$19,930.68
Postage/Delivery/Express Delivery Services	\$12,976.49
Telephone	\$554.35
Witness/Service Fees	\$36,278.22
TOTALS:	\$350,318.76

*This includes a \$25,000 retainer paid to Lowenstein Sandler when they were retained.

Exhibit 3

THE FIRM

Berman Tabacco is a national law firm with 34 attorneys located in offices in Boston and San Francisco. Since its founding in 1982, the firm has devoted its practice to complex litigation, primarily representing plaintiffs seeking redress under U.S. federal and state securities, antitrust and consumer laws.

Over the past almost four decades, Berman Tabacco's attorneys have prosecuted hundreds of class actions, recovering billions of dollars on behalf of the firm's clients and the classes they represented. In addition to financial recoveries, the firm has achieved significant changes in corporate governance and business practices of defendant companies. Indeed, the firm appears as among the firms with the most settlements on the list of the top 100 largest securities class actions in SCAS' published report, *Top 100 U.S. Class Action Settlements of All Time (as of 12/31/2021)*.¹ According to ISS Securities Class Action Services' "Top 50 for 2015" report, Berman Tabacco was one of only six firms that recovered more than half-a-billion dollars for investors in 2015.² SCAS similarly ranked the firm among the few that obtained over half-a-billion in settlements in 2004 and 2009, and ranked the firm 3rd in terms of settlement averages for class actions in 2009, 2010 and 4th in 2004 (SCAS ceased rankings according to settlement sizes in 2012). The firm currently holds leadership positions in securities, antitrust and consumer cases around the country.

Berman Tabacco is rated AV Preeminent® by *Martindale-Hubbell*®. *Benchmark Litigation* ranked the firm as a *Top Ten Plaintiffs' Firm* for its work "on behalf of individuals and institutions who have suffered financial harm due to violations of securities or antitrust laws" for the sixth consecutive year (2017-2022). *Benchmark Litigation* also ranked the firm as *Highly Recommended* in 2022 – the eleventh consecutive time the firm has received that distinction.³ *The Legal 500* also ranked the firm as *recommended* in securities litigation in its 2017-2022 U.S. editions and as *recommended* in antitrust litigation in its 2019-2022 U.S. editions, noting in 2019 that the firm is known for its "soup-to-nuts excellence, from legal analysis through to trial preparation and trial," and that clients had noted that the firm makes a "very comprehensive effort, with no stone left unturned." In 2020, *The Legal 500* reported client praise for Berman including that the firm has "[a]n excellent team from top to bottom. It provides superb responsiveness and is able to dig in hard at a moment's notice." And further that, the team is "always prepared and [has] deep knowledge of the issue. It is a pleasure to observe a team that so well coordinated." Additionally, *Chambers USA* recognized the firm in its *Securities Litigation – Mainly Plaintiff* category in 2021 and 2022 in both its *USA Nationwide* and *California* editions. The firm was previously recognized by *Chambers USA* in the same category in 2017 and 2018 in its *USA Nationwide* edition. Berman Tabacco was also recognized in both securities and antitrust litigation by *U.S. News & World Report—Best Lawyers* in the twelfth Edition of the *Best Law Firms* rankings (2022 ed.) and was previously recognized in antitrust (2019-2021) and securities (2020-2021)

¹ *Top 100 U.S. Class Action Settlements of All Time as of December 31, 2021*, pp. 13, 18 (ISS SCAS 2022), <http://www.bermantabacco.com/wp-content/uploads/2022/01/SCAS-Top-100-US-Settlements-of-All-Time-as-of-2021-12-31.pdf>.

² ISS's report "lists the top 50 plaintiffs' law firms ranked by the total dollar value of the final class action settlements occurring in 2015 in which the law firm served as lead or co-lead counsel." ISS Securities Class Action Services, *Top 50 for 2015*, at p. 4 (May 2016), <https://www.bermantabacco.com/wp-content/uploads/2018/05/scastop502015.pdf>.

³ See <https://www.benchmarklitigation.com/Firm/Berman-Tabacco-California/Profile/109234#review>.

litigation. Berman Tabacco's lawyers are frequently singled out for favorable comments by our clients, presiding judges and opposing counsel.

SECURITIES PRACTICE

Berman Tabacco has almost 40 years of experience in securities litigation and has represented public pension funds and other institutional investors in this area since 1998. As reported by Cornerstone Research, the firm has successfully prosecuted some of the most significant shareholder class action lawsuits.⁴ Indeed, the firm appears as among the firms with the most settlements on the list of the top 100 largest securities class actions in SCAS' published report, *Top 100 U.S. Class Action Settlements of All Time (as of 12/31/2021)*.⁵ According to ISS Securities Class Action Services "Top 50 for 2015" report, Berman Tabacco was one of only six firms that recovered more than half-a-billion dollars for investors in 2015.⁶ SCAS similarly ranked the firm among the few that obtained over half-a-billion in settlements in 2004 and 2009, and ranked the firm 3rd in terms of settlement averages for class actions in 2009, 2010 and 4th in 2004 (SCAS ceased rankings according to settlement sizes in 2012).

Specifically, the firm has been appointed lead or co-lead counsel in more than 100 actions, recovering billions of dollars on behalf of defrauded investors and the classes they represent under the Private Securities Litigation Reform Act of 1995 ("PSLRA"). The firm has an extremely rigorous case-evaluation process and highly experienced litigation attorneys. Its dismissal rate for cases brought under the PSLRA is less than half the overall dismissal rate for such cases according to one authoritative study.⁷

Berman Tabacco serves as monitoring, evaluation and/or litigation counsel to nearly 100 institutional investors, including statewide public employee retirement systems in more than 16 states, 18 public funds with more than \$50 billion in assets, six of the 10 largest public pension plans in the country and 11 of the

⁴ Cornerstone Research, *Securities Class Action Filings: 2011 Year in Review* (2012), at p. 23, available at <http://securities.stanford.edu/research-reports/1996-2011/Cornerstone-Research-Securities-Class-Action-Filings-2011-YIR.pdf>.

⁵ *Top 100 U.S. Class Action Settlements of All Time as of December 31, 2021*, pp. 13, 18 (ISS SCAS 2022), <http://www.bermantabacco.com/wp-content/uploads/2022/01/SCAS-Top-100-US-Settlements-of-All-Time-as-of-2021-12-31.pdf>.

⁶ ISS's report "lists the top 50 plaintiffs' law firms ranked by the total dollar value of the final class action settlements occurring in 2015 in which the law firm served as lead or co-lead counsel." ISS Securities Class Action Services, *Top 50 for 2015*, at p. 4 (May 2016), <https://www.bermantabacco.com/wp-content/uploads/2018/05/scastop502015.pdf>.

⁷ Firm data reflects dismissal rates through present. Overall dismissal rates come from *Securities Class Action Filings: 2021 Year in Review*, pp. 18, 31 (Cornerstone Research 2022), <https://www.cornerstone.com/wp-content/uploads/2022/02/Securities-Class-Action-Filings-2021-Year-in-Review.pdf>.

largest 20.⁸ For many institutional investors, the firm's services include electronically monitoring the client's portfolio for losses due to securities fraud in U.S. securities cases.

The firm provides portfolio monitoring, case evaluation and litigation services to its institutional clients, including the litigation of class and individual claims pursuant to U.S. federal and state securities laws, as well as derivative cases pursuant to state law. The firm also offers institutional investors legal services in other areas, including (a) representing institutional investors in general commercial litigation; (b) representing institutional investors in their capacity as defendants in constructive fraudulent transfer cases; (c) negotiating resolution of disputes with money managers and custodians; and (d) pursuing shareholder rights, such as books and records demands and merger and acquisition cases.

RESULTS

SECURITIES SETTLEMENTS

Examples of the firm's settlements include:

Carlson v. Xerox Corp., No. 00-cv-1621 (D. Conn.). Representing the Louisiana State Employees' Retirement System as co-lead counsel, Berman Tabacco negotiated a \$750 million settlement to resolve claims of securities fraud against Xerox, certain top officers and its auditor KPMG LLP. When it received final court approval in January 2009, the recovery was the 10th largest securities class action settlement of all time. The judge praised plaintiffs' counsel for obtaining "a very large settlement" despite vigorous opposition in a case complicated by an alleged fraud that "involved multiple accounting standards that touched on numerous aspects of a multinational corporation's business, implicated operating units around the world, and spanned five annual reporting periods. ... [and] the rudiments of the accounting principles at issue in the case were complex, as were numerous other aspects of the case. ... The class received high-quality legal representation and obtained a very large settlement in the face of vigorous opposition by highly experienced and skilled defense counsel."

In re IndyMac Mortgage-Backed Litigation, No. 09-cv-4583 (S.D.N.Y.). Representing the Wyoming State Treasurer's Office and the Wyoming Retirement System as lead plaintiffs, Berman Tabacco achieved settlements totaling \$346 million in a case regarding the securitization and sale of mortgage-backed securities ("MBS") by IndyMac Bank and related entities. In February 2015, the court approved a \$340 million settlement with six underwriters of IndyMac MBS offerings, adding to a previous \$6 million partial settlement and making the total recovery one of the largest MBS class action settlements to date. This settlement is extraordinary, not only because of its size but also because \$340 million of the settlement amount was paid entirely by underwriters who had due diligence defenses. In most other MBS cases, by contrast, plaintiffs were able to recover the settlement fund monies from the issuing entities, who are held to

⁸ Based on a January 2020 query of the Standard & Poor's *Money Market Directories*, www.mmdwebaccess.com, whereby public pension funds were ranked according to defined benefit assets under management. Actual valuation dates vary.

a strict liability standard for which there is no due diligence defense. (The issuer in this action, IndyMac Bank, is no longer in existence.)

In re Bristol-Myers Squibb Securities Litigation, No. 02-cv-2251 (S.D.N.Y.). Berman Tabacco represented the Fresno County Employees' Retirement Association and Louisiana State Employees' Retirement System as co-lead plaintiffs and negotiated a settlement of \$300 million in July 2004. At that time, the settlement was the largest by a drug company in a U.S. securities fraud case.

In re The Bear Stearns Cos. Inc. Securities, Derivative and ERISA Litigation, Master File No. 08-MDL No. 1963/08 Civ. 2793 (S.D.N.Y.). Berman Tabacco acted as co-lead counsel for court-appointed lead plaintiff the State of Michigan Retirement Systems in this case arising from investment losses suffered in the Bear Stearns Companies' 2008 collapse. The firm negotiated \$294.9 million in settlements, comprised of \$275 million from Bear Stearns and \$19.9 million from auditor Deloitte & Touche LLP. The settlement received final approval November 9, 2012. At the time, the settlement for \$294.9 million represented one of the 40 largest securities class action settlements under the PSLRA. This is particularly significant in light of the fact that no government entity had pursued actions or claims against Bear Stearns or its former officers and directors related to the same conduct complained of in the firm's action.

In re El Paso Securities Litigation, No. H-02-2717 (S.D. Tex.). Representing the Oklahoma Firefighters Pension and Retirement System as co-lead plaintiff, Berman Tabacco helped negotiate a settlement totaling \$285 million, including \$12 million from auditors PricewaterhouseCoopers. The court granted final approval of the settlement in March 2007.

California Public Employees' Retirement System v. Moody's Corp., No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.). As sole counsel representing the California Public Employees' Retirement System (CalPERS), the firm obtained a combined \$255 million settlement with the credit rating agencies Moody's and Standard & Poor's to settle CalPERS' claim that "Aaa" ratings on three structured investment vehicles were negligent misrepresentations under California law. In addition to achieving a substantial recovery for investment losses, this case was groundbreaking in that (a) the settlements rank as the largest known recoveries from Moody's and S&P in a private lawsuit for civil damages, and (b) it resulted in a published appellate court opinion finding that rating agencies can, in certain circumstances, be liable for negligent misrepresentations under California law for their ratings of privately-placed securities.

In re Centennial Technologies Securities Litigation, No. 97-cv-10304 (D. Mass.). Berman Tabacco served as sole lead counsel in a class action involving a massive accounting scandal that shot down the company's high-flying stock. Berman Tabacco negotiated a settlement that permitted a turnaround of the company and provided a substantial recovery for class members. The firm negotiated changes in corporate practice, including strengthening internal financial controls and obtaining 37% of the company's stock for the class. The firm also recovered \$20 million from Coopers & Lybrand, Centennial's auditor at the time. In addition, the firm recovered \$2.1 million from defendants Jay Alix & Associates and Lawrence J. Ramaekers for a total recovery of more than \$35 million for the class. The firm subsequently obtained a \$207 million judgment against former Centennial CEO Emanuel Pinez.

In re Digital Lightwave Securities Litigation, No. 98-152-cv-T-24C (M.D. Fla.). As co-lead counsel, Berman Tabacco negotiated a settlement that included changing company management and strengthening the company's internal financial controls. The class received 1.8 million shares of freely tradable common stock

that traded at just below \$4 per share when the court approved the settlement. At the time the shares were distributed to the members of the class, the stock traded at approximately \$100 per share and class members received more than 200% of their losses after the payment of attorneys' fees and expenses. The total value of the settlement, at the time of distribution, was almost \$200 million.

In re Lernout & Hauspie Securities Litigation, No. 00-11589 (D. Mass.), and *Quaak v. Dexia, S.A.*, No. 03-11566 (D. Mass.). In December 2004, as co-lead counsel, Berman Tabacco negotiated what was then the third-largest settlement ever paid by accounting firms in a securities class action – a \$115 million agreement with the U.S. and Belgian affiliates of KPMG International. The case stemmed from KPMG's work for Lernout & Hauspie Speech Products, a software company driven into bankruptcy by a massive fraud. In March 2005, the firm reached an additional settlement worth \$5.27 million with certain of Lernout & Hauspie's former top officers and directors. In the related *Quaak* case, the firm negotiated a \$60 million settlement with Dexia Bank Belgium to settle claims stemming from the bank's alleged role in the fraudulent scheme at Lernout & Hauspie. The court granted final approval of the Dexia settlement in June 2007, bringing the total settlement value to more than \$180 million.

In re BP PLC Securities Litigation, No. 10-md-2185 (S.D. Tex.). The firm was co-lead counsel representing co-lead plaintiff Ohio Public Employees Retirement System. Lead plaintiffs reached a \$175 million settlement to resolve claims brought on behalf of a class of investors who purchased BP's American Depositary Shares ("ADS") between April 26, 2010 and May 28, 2010. The action alleged that BP and two of its former officers made false and misleading statements regarding the severity of the Gulf of Mexico oil spill. More specifically, plaintiffs alleged that BP misrepresented that its best estimate of the oil spill flow rate was from 1,000 to 5,000 barrels of oil per day, when internal BP estimates showed substantially higher potential flow rates. On February 13, 2017, the court granted final approval of the settlement, ending more than six years of hard fought litigation that included extensive fact and expert discovery, multiple rounds of briefing on defendants' motions to dismiss, two rounds of briefing on class certification, a successful defense of BP's appeal of the district court's class certification decision and briefing on cross-motions for summary judgment. This settlement reportedly represents one of only four mega securities class action settlements (settlements of \$100 million or more) in 2017. See *Securities Class Action Settlements—2017 Review and Analysis*, p. 4 (Cornerstone Research 2018), <https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Settlements-2017-Review-and-Analysis>. It was also listed as the highest valued settlement during the first half of 2017 by ISS Securities Class Action Services. See ISS Securities Class Action Services, *Top 100 U.S. Class Action Settlements of All Time as of Dec. 31, 2017* (2018), p. 2, available at <https://www.bermantabacco.com/wp-content/uploads/2018/03/SCAS-Top-100-Settlements-of-All-Time-2017-12-31.pdf>.

In re Fannie Mae 2008 Securities Litigation, No. 08-cv-7831 (S.D.N.Y.). As co-lead counsel representing the Massachusetts Pension Reserves Investment Management Board, a co-lead plaintiff for the common stock class, Berman Tabacco helped negotiate a \$170 million settlement with Fannie Mae. To achieve the settlement, which was approved in March 2015, plaintiffs had to overcome the challenges posed by the federal government's placement of Fannie Mae into conservatorship and by the Second Circuit's upholding of dismissal of similar claims against Freddie Mac, Fannie Mae's sibling Government-Sponsored Enterprise.

In re Symbol Technologies, Inc. Securities Litigation, No. 2:02-cv-01383 (E.D.N.Y.). Berman Tabacco represented the Louisiana Municipal Police Employees' Retirement System as co-lead plaintiff, obtaining a \$139 million partial settlement in June 2004. Subsequently, Symbol's former auditor, Deloitte & Touche

LLP, agreed to pay \$24 million, bringing the total settlement to \$163 million. The court granted final approval in September 2006.

In re Prison Realty Securities Litigation, No. 3:99-cv-0452 (M.D. Tenn.) (*In re Old CCA Securities Litigation*, No. 3:99-cv-0458). The firm represented the former shareholders of Corrections Corporation of America, which merged with another company to form Prison Realty Trust, Inc. The action charged that the registration statement issued in connection with the merger contained untrue statements. Overcoming arguments that the class' claims of securities fraud were released in prior litigation involving the merger, the firm successfully defeated the motions to dismiss. It subsequently negotiated a global settlement of approximately \$120 million in cash and stock for this case and other related litigation.

Oracle Cases, Coordination Proceeding, Special Title (Rule 1550(b)) No. 4180 (Cal. Super. Ct. San Mateo Cty.). In this coordinated derivative action, Oracle Corporation shareholders alleged that the company's Chief Executive Officer, Lawrence J. Ellison, profited from illegal insider trading. Acting as co-lead counsel, the firm reached a settlement, pursuant to which Mr. Ellison would personally make charitable donations of \$100 million over five years in Oracle's name to an institution or charity approved by the company and pay \$22 million in attorneys' fees and expenses associated with the prosecution of the case. The innovative agreement, approved by a judge in December 2005, benefited Oracle through increased goodwill and brand recognition, while minimizing concerns that would have been raised by a payment from Mr. Ellison to the company, given his significant ownership stake. The lawsuit resulted in important changes to Oracle's internal trading policies that decrease the chances that an insider will be able to trade in possession of material, non-public information.

In re International Rectifier Securities Litigation, No. 07-cv-2544 (C.D. Cal.). As co-lead counsel representing the Massachusetts Laborers' Pension Fund, the firm negotiated a \$90 million settlement with International Rectifier Corporation and certain top officers and directors. The case alleged that the company engaged in numerous accounting improprieties to inflate its financial results. The court granted final approval of the settlement in February 2010. At the settlement approval hearing, the Honorable John F. Walter, the presiding judge, praised counsel, stating: "I think the work by the lawyers – all the lawyers in this case – was excellent. ... In this case, the papers were excellent. So it makes our job easier and, quite frankly, more interesting when I have lawyers with the skill of the lawyers that are present in the courtroom today who have worked on this case ... the motion practice in this case was, quite frankly, very intellectually challenging and well done. ... I've presided over this consolidated action since its commencement and have nothing but the highest respect for the professionalism of the attorneys involved in this case. ... The fact that plaintiffs' counsel were able to successfully prosecute this action against such formidable opponents is an impressive feat."

In re State Street Bank & Trust Co. ERISA Litigation, No. 07-cv-8488 (S.D.N.Y.). The firm acted as co-lead counsel in this consolidated class action case, which alleged that defendant State Street Bank and Trust Company and its affiliate, State Street Global Advisors, Inc., (collectively, "State Street") breached their fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA") by failing to prudently manage the assets of ERISA plans invested in State Street fixed income funds during 2007. After well over a year of litigation, during which Berman Tabacco and its co-counsel reviewed approximately 13 million pages of documents and took more than 30 depositions, the parties negotiated an all-cash \$89.75 million settlement, which received final approval in 2010.

In re Philip Services Corp. Securities Litigation, No. 98-cv-0835 (S.D.N.Y.). As co-lead counsel, Berman Tabacco negotiated settlements totaling \$79.75 million with the bankrupt company's former auditors, top officers, directors and underwriters. The case alleged that Philip Services and its top officers and directors made false and misleading statements regarding the company's publicly reported revenues, earnings, assets and liabilities. The district court initially dismissed the claims on grounds of *forum non conveniens*, but the firm successfully obtained a reversal by the United States Court of Appeals for the Second Circuit. The court granted final approval of the settlements in March 2007.

In re Reliant Securities Litigation, No. 02-cv-1810 (S.D. Tex.). As lead counsel representing the Louisiana Municipal Police Employees' Retirement System, the firm negotiated a \$75 million cash settlement from the company and Deloitte & Touche LLP. The settlement received final approval in January 2006.

In re KLA-Tencor Corp. Securities Litigation, No. 06-cv-04065 (N.D. Cal.). Representing co-lead plaintiff Louisiana Municipal Police Employees' Retirement System, Berman Tabacco negotiated a \$65 million agreement to settle claims that KLA-Tencor illegally backdated stock option grants, issued false and misleading statements regarding grants to key executives and inflated the company's financial results by understating expenses associated with the backdated options. The court granted final approval of the settlement in 2008. At the conclusion of the case, Judge Charles R. Breyer praised plaintiffs' counsel for "working very hard" in exchange for an "extraordinarily reasonable" fee, stating: "I appreciate the fact that you've done an outstanding job, and you've been entirely reasonable in what you've done. Congratulations for working very hard on this."

City of Brockton Retirement System v. Avon Products Inc., No. 11-cv-04665 (S.D.N.Y.). As a member of the executive committee representing named plaintiffs City of Brockton Retirement System and Louisiana Municipal Police Employees' Retirement System, the firm negotiated a \$62 million settlement. The action alleged that Avon Products, Inc. violated federal securities laws by failing to disclose to investors the size and scope of the Company's violations of the Foreign Corrupt Practices Act of 1977 ("FCPA"). In response to Avon's piecemeal disclosures over the course of more than a year, which ultimately revealed the true extent of the FCPA violations, the company's stock lost nearly 20% of its pre-disclosure value. This case was one of the very few successful securities cases premised on FCPA violations.

Ehrenreich v. Witter, No. 95-cv-6637 (S.D. Fla.). The firm was co-lead counsel in this case involving Sensormatic Electronics Corp., which resulted in a settlement of \$53.5 million. When it was approved in 1998, the settlement was one of the largest class action settlements in the state of Florida.

In re Thomas & Betts Securities Litigation, No. 2:00-cv-2127 (W.D. Tenn.). The firm served as co-lead counsel in this class action, which settled for more than \$51 million in 2004. Plaintiffs had accused the company and other defendants of issuing false and misleading financial statements for 1996, 1997, 1998, 1999 and the first two quarters of 2000.

In re Enterasys Networks, Inc. Securities Litigation, No. C-02-071-M (D.N.H.). Berman Tabacco acted as sole lead counsel in a case against Enterasys Networks, Inc., in which the Los Angeles County Employees Retirement Association was lead plaintiff. The company settled in October 2003 for \$17 million in cash, stock valued at \$33 million and major corporate governance improvements that opened the computer networking company to greater public scrutiny. Changes included requiring the company to back a proposal to eliminate its staggered board of directors, allowing certain large shareholders to propose candidates to

the board and expanding the company's annual proxy disclosures. The settlement received final court approval in December 2003.

Giarraputo v. UNUMProvident Corp., No. 2:99-cv-00301 (D. Me.). As a member of the executive committee representing plaintiffs, Berman Tabacco secured a \$45 million settlement in a lawsuit stemming from the 1999 merger that created UNUMProvident. Shareholders of both predecessor companies accused the insurer of misleading the public about its business condition before the merger. The settlement received final approval in June 2002.

In re General Electric Co. Securities Litigation, No. 09 Civ. 1951 (S.D.N.Y.). The firm served as Lead Counsel on behalf of the State Universities Retirement System of Illinois in a lawsuit against General Electric Co. and certain of its officers. A settlement in the amount of \$40 million was reached with all the parties. The court approved the settlement on September 6, 2013.

In re UCAR International, Inc. Securities Litigation, No. 98-cv-0600 (D. Conn.). The firm represented the Florida State Board of Administration as the lead plaintiff in a securities claim arising from an accounting restatement. The case settled for \$40 million cash and the requirement that UCAR appoint an independent director to its board of directors. The settlement was approved in 2000.

In re American Home Mortgage Securities Litigation, No. 07-MD-1898 (E.D.N.Y.). As co-lead counsel representing the Oklahoma Police Pension & Retirement System, the firm negotiated a \$37.25 million settlement – including \$4.75 million from auditors Deloitte & Touche and \$8.5 million from underwriters – despite the difficulties American Home's bankruptcy posed to asset recovery. The plaintiffs contended that American Home had failed to write down the value of certain loans in its portfolio, which declined substantially in value as the credit markets unraveled. The settlement received final approval in 2010 and was distributed in 2011.

In re Avant, Securities Litigation, No. 96-cv-20132 (N.D. Cal.). Avant!, a software company, was charged with securities fraud in connection with its alleged theft of a competitor's software code, which Avant! incorporated into its flagship software product. Serving as lead counsel, the firm recovered \$35 million for the class. The recovery resulted in eligible class claimants receiving almost 50% of their losses after attorneys' fees and expenses.

In re SmartForce PLC d/b/a SkillSoft Securities Litigation, No. 02-cv-544 (D.N.H.). Representing the Teachers' Retirement System of Louisiana as co-lead plaintiff, Berman Tabacco negotiated a \$30.5 million partial settlement with SkillSoft. Subsequently, the firm also negotiated an \$8 million cash settlement with Ernst & Young Chartered Accountants and Ernst & Young LLP, SkillSoft's auditors at the time. The settlements received final approval in September 2004 and November 2005, respectively.

In re Sykes Enterprises, Inc. Securities Litigation, No. 8:00-cv-212-T-26F (M.D. Fla.). The firm represented the Florida State Board of Administration as co-lead plaintiff. Sykes Enterprises was accused of using improper means to match the company's earnings with Wall Street's expectations. The firm negotiated a \$30 million settlement.

In re Valence Securities Litigation, No. 95-cv-20459 (N.D. Cal.). Berman Tabacco served as co-lead counsel in this action against a Silicon Valley-based company for overstating its performance and the

development of an allegedly revolutionary battery technology. After the Ninth Circuit reversed the district court's decision to grant summary judgment in favor of defendants, the case settled for \$30 million in Valence common stock.

In re Sybase II, Securities Litigation, No. 98-cv-0252-CAL (N.D. Cal.). Sybase was charged with inflating its quarterly financial results by improperly recognizing revenue at its wholly owned subsidiary in Japan. Acting as co-lead counsel, the firm obtained a \$28.5 million settlement.

In re Force Protection Inc. Securities Litigation, No. 08-cv-845 (D.S.C.). As co-lead counsel representing the Laborers' Annuity and Benefit System of Chicago, the firm negotiated a \$24 million settlement in a securities class action against armored vehicle manufacturer Force Protection, Inc. The settlement addressed the claims of shareholders who accused the company and its top officers of making false and misleading statements regarding financial results, failing to maintain effective internal controls over financial reporting and failing to comply with government contracting standards.

In re Zynga Inc. Securities Litigation, No. 12-cv-04007 (N.D. Cal.). As co-lead counsel, the firm negotiated a \$23 million recovery to settle claims against the company and certain of its officers. The case alleged that the company and its highest-level officers falsely touted accelerated bookings and aggressive growth through 2012, while concealing crucial information that Zynga was experiencing significant declines in bookings for its games and upcoming Facebook platform changes that would negatively impact Zynga's bookings. Then, while Zynga's stock was trading at near a class-period high, defendants obtained an early release from the IPO lock-up on their shares to enable them and a few other insiders to reap over \$593 million in proceeds in a secondary offering of personally held shares. The secondary offering was timed just three months before Zynga announced its dismal Q2 2012 earnings at the end of the class period, which caused Zynga's stock to plummet. The court granted final approval of the settlement in February 2016.

In re ICG Communications Inc. Securities Litigation, No. 00-cv-1864 (D. Colo.). As co-lead counsel representing the Strategic Marketing Analysis Fund, the firm negotiated an \$18 million settlement with ICG Communications Inc. The case alleged that ICG executives misled investors and misrepresented growth, revenues and network capabilities. The court granted final approval of the settlement in January 2007.

In re Critical Path, Inc. Securities Litigation, No. 01-cv-0551 (N.D. Cal.). The firm negotiated a \$17.5 million recovery to settle claims of accounting improprieties at a California software development company. Representing the Florida State Board of Administration, the firm was able to obtain this recovery despite difficulties arising from the fact that Critical Path teetered on the edge of bankruptcy. The settlement was approved in June 2002.

Koch v. Healthcare Services Group, Inc., et al., No. 2:19-cv-01227-ER (E.D. Pa.). As lead counsel representing the Utah Retirement Systems in a class action brought on behalf of investors in Healthcare Services Group, Inc., one of the largest providers of housekeeping and laundry services to hospitals and other healthcare service organization, the firm negotiated a \$16.8 million settlement. The Court granted final approval of the settlement on January 12, 2022.

In re Sunrise Senior Living, Inc. Securities Litigation, No. 07-cv-00102 (D.D.C.). A federal judge granted final approval of a \$13.5 million settlement between Oklahoma Firefighters Pension and Retirement System, represented by Berman Tabacco, and Sunrise Senior Living Inc.

Hallet v. Li & Fung, Ltd., No. 95-cv-08917 (S.D.N.Y.). Cyrk Inc. was charged with misrepresenting its financial results and failing to disclose that its largest customer was ending its relationship with the company. In 1998, Berman Tabacco successfully recovered more than \$13 million for defrauded investors.

In re Warnaco Group, Inc. Securities Litigation, No. 00-cv-6266 (S.D.N.Y.). Representing the Fresno County Employees' Retirement Association as co-lead plaintiff, the firm negotiated a \$12.85 million settlement with several current and former top officers of the company.

Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc., et al., No. 2:20-cv-10490 (E.D. Mich.). As lead counsel representing sole Lead Plaintiff Oklahoma Police Pension and Retirement System in this securities fraud class action lawsuit against Sterling Bancorp, Inc., certain of its current and former officers and directors, and the underwriters for the Company's initial public offering, the firm negotiated a settlement of all claims in exchange for \$12.5 million, which was approved by the court on September 23, 2021.

Gelfer v. Pegasystems, Inc., No. 98-cv-12527 (D. Mass.). As co-lead counsel, Berman Tabacco negotiated a settlement valued at \$12.5 million, \$4.5 million in cash and \$7.5 million in shares of the company's stock or cash, at the company's option.

Sand Point Partners, L.P. v. Pediatrix Medical Group, Inc., No. 99-cv-6181 (S.D. Fla.). Berman Tabacco represented the Florida State Board of Administration, which was appointed co-lead plaintiff along with several other public pension funds. The complaint accused Pediatrix of Medicaid billing fraud, claiming that the company illegally increased revenue and profit margins by improperly coding treatment rendered. The case settled for \$12 million on the eve of trial in 2002.

In re Molten Metal Technology Inc. Securities Litigation, No. 1:97-cv-10325 (D. Mass.), and *Axler v. Scientific Ecology Group, Inc.*, No. 1:98-cv-10161 (D. Mass.). As co-lead counsel, Berman Tabacco played a key role in settling the actions after Molten Metal and several affiliates filed a petition for bankruptcy reorganization in Massachusetts. The individual defendants and the insurance carriers in Molten Metal agreed to settle for \$11.91 million. After the bankruptcy, a trustee objected to the use of insurance proceeds for the settlement. The parties agreed to pay the trustee \$1.325 million of the Molten Metal settlement. The parties also agreed to settle claims against Scientific Ecology Group for \$1.25 million, giving Molten Metal's investors \$11.835 million.

In re CHS Electronics, Inc. Securities Litigation, No. 99-8186-CIV (S.D. Fla.). The firm helped obtain an \$11.5 million settlement for co-lead plaintiff Warburg, Dillon, Read, LLC (now UBS Warburg).

In re Summit Technology Securities Litigation, No. 96-cv-11589 (D. Mass.). Berman Tabacco, as co-lead counsel, negotiated a \$10 million settlement for the benefit of the class.

In re Exide Corp. Securities Litigation, No. 98-cv-60061 (E.D. Mich.). Exide was charged with having altered its inventory accounting system to artificially inflate profits by reselling used, outdated or unsuitable batteries as new ones. As co-lead counsel for the class, Berman Tabacco recovered more than \$10 million in cash for class members.

In re Fidelity/Micron Securities Litigation, No. 95-cv-12676 (D. Mass.). The firm recovered \$10 million in cash for Micron investors after a Fidelity Fund manager touted Micron while secretly selling the stock.

In re Par Pharmaceutical Securities Litigation, No. 06-cv-03226 (D.N.J.). As counsel for court-appointed plaintiff, the Louisiana Municipal Police Employees' Retirement System, Berman Tabacco obtained an \$8.1 million settlement from the company and its former CEO and CFO, which the court approved in January 2013. The case alleged that the company had misled investors about its accounting practices, including overstatement of revenues.

In re Interspeed, Inc. Securities Litigation, No. 00-cv-12090-EFH (D. Mass.). Berman Tabacco served as co-lead counsel and negotiated a \$7.5 million settlement on behalf of the class. The settlement was reached in an early stage of the proceedings, largely as a result of the financial condition of Interspeed and the need to salvage a recovery from its available assets and insurance.

In re Aqua Metals, Inc. Securities Litigation, No. 4:17-CV-07142-HSG (N.D. Cal.). Berman Tabacco served as co-lead counsel for court-appointed lead plaintiff Plymouth County Retirement Association and negotiated a \$7 million settlement on behalf of the class. The court granted final approval of the settlement on March 2, 2022.

In re Abercrombie & Fitch Co. Securities Litigation, No. M21-83 (S.D.N.Y.). As a member of the executive committee in this case, the firm recovered more than \$6 million on behalf of investors. The case alleged that the clothing company misled investors with respect to declining sales, which affected the company's financial condition. The court granted final approval of the settlement in January 2007.

In re Digital Domain Media Group, Inc. Securities Litigation, No. 12-14333-CIV (S.D. Fla.). As co-lead counsel, Berman Tabacco obtained a \$5.5 million settlement on behalf investors of Digital Domain Media Group, Inc. ("DDMG") that was approved by the both bankruptcy court and the Southern District of Florida. The lead plaintiffs alleged that DDMG, a digital production company that was forced to file for bankruptcy in September 2012, less than 10 months after its initial public offering ("IPO"), misled investors in documents filed with the U.S. Securities and Exchange Commission as part of the IPO and in other statements made throughout the class period. Among other things, the lawsuit alleged that the defendants misled the public about DDMG's ability to raise capital and fund its operations, falsely reassuring investors about the company's ability to meet operating expenses while it "burned" cash at a rate that threatened its viability. In fact, according to a September 18, 2012 article in the Palm Beach Post, DDMG had difficulties meeting payroll as far back as 2010. According to the same article, then-Chairman and CEO John C. Textor "himself predicted a 'train wreck' in an email to an investor in early 2010."

In re WorldCom, Inc. Securities Litigation, No. 02-cv-3288 (S.D.N.Y.). As counsel to court-appointed bondholder representatives, the County of Fresno, California and the Fresno County Employees' Retirement Association, Berman Tabacco helped a team of lawyers representing the lead plaintiff, the New York State Common Retirement Fund, obtain settlements worth more than \$6.13 billion.

Daccache, et al. v. Raymond James Financial, Inc., et al., No. 16-cv-21575 (S.D. Fla); *Shaw et al. v. Raymond James Financial, Inc., et al.*, No. 5:16-cv-00129-GWC (D. Vt. May 17, 2016). Berman Tabacco served on the Plaintiffs' Steering Committee in this RICO class action brought on behalf of investors in limited partnerships associated with the Jay Peak ski resort in Vermont. Plaintiffs, foreign nationals whose investments were made through the federal "EB-5 Immigrant Investor Program," alleged that over \$200

million in investor funds were misappropriated and/or otherwise misused in an elaborate, Ponzi-like scheme. Defendants' scheme was revealed in April 2016, when the SEC announced multiple securities fraud charges and an asset freeze against Jay Peak and related business entities, the resort's Florida-based owner and the resort's principal officer. Plaintiffs alleged that those individuals and entities, as well as certain financial institutions and their employees, devised and executed a complex money laundering scheme wherein investor funds were improperly transferred from escrow accounts to investment accounts that were controlled by Jay Peak's owner and used for purposes other than those specified in the limited partnership documents. Among other things, plaintiffs alleged the improper commingling of investor funds and the misappropriation of more than \$50 million in investor funds by Jay Peak's owner for his personal use. Plaintiffs sought recovery under Florida's RICO Act and also asserted claims for common law fraud, breach of fiduciary duty, negligence, civil conspiracy, and breach of contract. On April 13, 2017, Defendant Raymond James & Associates, Inc. agreed to a \$150 million settlement, which was approved on June 30, 2017.

ANTITRUST PRACTICE

Berman Tabacco has a national reputation for our work prosecuting antitrust class actions involving price-fixing, market allocation agreements, patent misuse, monopolization and group boycotts among other types of anticompetitive conduct. Representing clients ranging from Fortune 500 companies and public pension funds to individual consumers, the experienced senior attorneys in our Antitrust Practice Group have engineered substantial settlements and changed business practices of defendant companies, recovering more than \$1 billion for our clients overall.

Berman Tabacco has played a major role in the prosecution of numerous landmark antitrust cases. For example, the firm was lead counsel in the Toys "R" Us litigation, which developed the antitrust laws with respect to "hub and spoke" conspiracies and resulted in a \$56 million settlement. Berman Tabacco brought the first action centered on so-called "reverse payments" between a brand name drug maker and a generic drug maker, resulting in an \$80 million settlement from the drug makers, which had been accused of keeping a generic version of their blood pressure medication off the market.

The firm's victories for victims of antitrust violations have come at the trial court level and also through landmark appellate court victories, which have contributed to shaping private enforcement of antitrust law. For example, in the Cardizem CD case, Berman Tabacco was co-lead counsel representing health insurer Aetna in an antitrust class action and obtained a pioneering ruling in the federal court of appeals regarding the "reverse payment" by a generic drug manufacturer to the brand name drug manufacturer. In a first of its kind ruling, the appellate court held that the brand name drug manufacturer's payment of \$40 million per year to the generic company for the generic to delay bringing its competing drug to market was a *per se* unlawful market allocation agreement. Today that victory still shapes the ongoing antitrust battle over competition in the pharmaceutical market.

In the firm's case against diamond giant De Beers, the Third Circuit, sitting *en banc*, vacated an earlier panel decision and upheld the certification of a nationwide settlement class, removing the last obstacle to final approval of an historic \$295 million settlement. The Third Circuit's important decision provides a roadmap for obtaining settlement class certification in complex, nationwide class actions involving laws of numerous states.

In 2016, the firm won reversal of a grant of summary judgment for defendant automakers in a group boycott-conspiracy case involving the export of new motor vehicles from Canada to the U.S. The California Court of Appeal found that plaintiffs had presented evidence of “patently anticompetitive conduct” with evidence gathered in the pre-trial phase, which was powerful enough to go to a jury. The ruling is a rare example of an appellate court analyzing and reversing a trial court’s evidentiary rulings to find evidence of a conspiracy.

Today the firm currently represents clients in significant antitrust class actions around the country, including actively representing major public pension funds in prosecuting price-fixing in the financial derivatives and commodities markets in the Euribor and Yen LIBOR actions and the Foreign Currency Exchange Rate action.

While the majority of antitrust cases settle, our attorneys have experience taking antitrust class actions to trial. Because we represent only plaintiffs in antitrust matters, we do not have the conflicts of interest of other national law firms that represent both plaintiffs and defendants. Our experience also allows us to counsel medium and larger-sized corporations considering whether to participate as a class member or opt-out and pursue an individual strategy.

RESULTS

ANTITRUST SETTLEMENTS

Over the past nearly three decades, Berman Tabacco has actively prosecuted scores of complex antitrust cases that led to substantial settlements for its clients. These include:

In re NASDAQ Market-Makers Antitrust Litigation, No. 94-cv-3996 (S.D.N.Y.). The firm played a significant role in one of the largest antitrust settlements on record in a case that involved alleged price-fixing by more than 30 NASDAQ Market-Makers on about 6,000 NASDAQ-listed stocks over a four-year period. The settlement was valued at nearly \$1 billion.

In re Foreign Currency Conversion Fee Antitrust Litigation, MDL No. 1409 (S.D.N.Y.). Berman Tabacco, as head of discovery against defendant Citigroup Inc., played a key role in reaching a \$336 million settlement. The agreement settled claims that the defendants, which include the VISA, MasterCard and Diners Club networks and other leading bank members of the VISA and MasterCard networks, violated federal and state antitrust laws in connection with fees charged to U.S. cardholders for transactions effected in foreign currencies.

In re DRAM Antitrust Litigation, No. M:02-cv-01486 (N.D. Cal.). As liaison counsel, the firm actively participated in this multidistrict litigation, which ultimately resulted in significant settlements with some of the world’s leading manufacturers of Dynamic Random Access Memory (DRAM) chips. The defendant chip-makers allegedly conspired to fix prices of the DRAM memory chips sold in the United States during the class period. The negotiated settlements totaled nearly \$326 million.

Sullivan v. DB Investments, Inc., No. 04-02819 (D.N.J.). Berman Tabacco represented a class of diamond resellers, such as diamond jewelry stores, in this case alleging that the De Beers group of companies unlawfully monopolized the worldwide supply of diamonds in a scheme to overcharge resellers and

consumers. In May 2008, a federal judge approved the settlement, which included a cash payment to class members of \$295 million, an agreement by De Beers to submit to the jurisdiction of the United States court to enforce the terms of the settlement and a comprehensive injunction limiting De Beers' ability to restrict the worldwide supply of diamonds in the future. This case is significant not only because of the large cash recovery but also because previous efforts to obtain jurisdiction over De Beers in both private and government actions had failed. On August 27, 2010, the United States Court of Appeals for the Third Circuit agreed to hear arguments over whether to uphold the district court's certification of the settlement class. By agreeing to schedule an *en banc* appeal before the full court, the Third Circuit vacated a July 13, 2010 ruling by a three-judge panel of the appeals court that, in a 2-to-1 decision, had ordered a remand of the case back to the district court, which may have required substantial adjustments to the original settlement. On February 23, 2011, the Third Circuit, sitting *en banc*, again heard oral argument from the parties. On December 20, 2011, the *en banc* Third Circuit handed down its decision affirming the district court in all respects.

In re Lithium Ion Batteries Antitrust Litigation, No. 13-md-2420-YGR (N.D. Cal.). As co-lead class counsel for Direct Purchaser Plaintiffs ("DPPs") in this multidistrict antitrust litigation, the firm achieved settlements totaling \$139.3 million. The litigation arose from an alleged worldwide conspiracy to fix prices of lithium-ion rechargeable batteries ("LiBs"). LiBs are components of LiB camcorders, digital cameras and laptop computers. The alleged conspiracy involved some of the largest companies in the world—Sony, Samsung SDI, Panasonic, Sanyo, LG Chem, Toshiba, Hitachi Maxell and NEC Corp. The lawsuit alleges that defendants participated in a conspiracy to fix the prices of LiBs, which affected the prices paid for the batteries and certain products in which the batteries are used. Plaintiffs successfully defeated multiple motions to dismiss involving complex issues of antitrust standing and the pleading of conspiracy allegations. Berman Tabacco and the team negotiated multiple settlements totaling \$139.3 million. The court granted final approval on May 16, 2018.

In re Sorbates Direct Purchaser Antitrust Litigation, No. C 98-4886 CAL (N.D. Cal.). The firm served as lead counsel alleging that six manufacturers of Sorbates, a food preservative, violated antitrust laws through participation in a worldwide conspiracy to fix prices and allocations to customers in the United States. The firm negotiated a partial settlement of \$82 million with four of the defendants in 2000. Following intensive pretrial litigation, the firm achieved a further \$14.5 million settlement with the two remaining defendants, Japanese manufacturers, in 2002. The total settlement achieved for the class was \$96.5 million.

In re Disposable Contact Lens Antitrust Litigation, MDL No. 1030 (M.D. Fla.). The firm acted as co-lead counsel and chief trial counsel. Representing both a national class and the State of Florida, the firm helped secure settlements from defendants Bausch & Lomb and the American Optometric Association before trial and from Johnson & Johnson after five weeks of trial. The settlements were valued at more than \$92 million and also included significant injunctive relief to make disposable contact lenses available at more discount outlets and more competitive prices.

In re Cardizem CD Antitrust Litigation, No. 99-01278 (E.D. Mich.). In another case involving generic drug competition, Berman Tabacco, as co-lead counsel, helped secure an \$80 million settlement from French-German drug maker Aventis Pharmaceuticals and the Andrx Corporation of Florida. The payment to consumers, state agencies and insurance companies settled claims that the companies conspired to prevent the marketing of a less expensive generic version of the blood pressure medication Cardizem CD. The state attorneys general of New York and Michigan joined the case in support of the class. The firm achieved a significant appellate victory in a first of its kind ruling that the brand name drugmaker's payment

of \$40 million per year for the generic company to delay bringing its generic version of blood-pressure medication Cardizem CD to market constituted an agreement not to compete that is a *per se* violation of the antitrust laws.

In re Toys "R" Us Antitrust Litigation, MDL No. 1211 (E.D.N.Y.). Berman Tabacco negotiated a \$56 million settlement to answer claims that the retailer violated laws by colluding to cut off or limit supplies of popular toys to stores that sold the products at lower prices. The case developed the antitrust laws with respect to a "hub and spoke" conspiracy, where a downstream power seller coerces upstream manufacturers to the detriment of consumers. One component of the settlement required Toys "R" Us to donate \$36 million worth of toys to needy children throughout the United States over a three-year period.

In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation, MDL No. 05-1671 (C.D. Cal.). Berman Tabacco, as co-lead counsel, negotiated a \$48 million settlement with Union Oil Company and Unocal. The agreement settled claims that the defendants manipulated the California gas market for summertime reformulated gasoline and increased prices for consumers. The noteworthy settlement delivered to consumers a combination of clean air benefits and funding for alternative fuel research.

In re Abbott Laboratories Norvir Antitrust Litigation, Nos. 04-1511, 04-4203 (N.D. Cal.). Berman Tabacco acted as co-lead counsel in a case on behalf of indirect purchasers alleging that the defendant pharmaceutical company engaged in an illegal leveraged monopoly in the sale of its AIDS boosting drug known as Norvir (or Ritanovir). Plaintiffs were successful through summary judgment, including the invalidation of two key patents based on prior art, but were reversed on appeal in the Ninth Circuit as to the leveraged monopoly theory. The case settled for \$10 million, which was distributed net of fees and costs on a *cy pres* basis to 10 different AIDS research and charity organizations throughout the United States.

Automotive Refinishing Paint Antitrust, J.C.C.P. No. 4199 (Cal. Super. Ct.). In this class action, indirect purchaser-plaintiffs brought suit in California State Court against five manufacturers of automotive refinishing coatings and chemicals alleging that they violated California law by unlawfully conspiring to fix paint prices. Settlements were reached with all defendants totaling \$9.4 million, 55% of which was allocated among an End-User Class consisting of consumers and distributed on a *cy pres*, or charitable, basis to thirty-nine court-approved organizations throughout California, and the remaining 45% of which was distributed directly to a Refinishing Class consisting principally of auto-body shops located throughout California.

CONSUMER PRACTICE

With almost 40 years of class action litigation experience, Berman Tabacco is committed to bringing justice to the victims of fraudulent and abusive practices. Over the years, the firm has prosecuted and obtained recoveries for consumers against various business such as banks, computer electronics and software companies, brokers and product manufacturers.

Most recently, Berman Tabacco is seeking to apply its extensive complex class action experience to fight against unlawful and predatory lending practices. Berman Tabacco currently serves as lead counsel in several class actions brought on behalf of individuals arguing that their need for short-term cash has been exploited by illegal online payday lending schemes. The cases allege that payday lenders issued loans in

the name of sham companies established by Native American tribes, including American Web Loan, Plain Green and Great Plains Lending, in a brazen attempt to dodge usury laws and charge unlawful triple-digit interest rates.

In addition to recovering monies for consumers, the firm has obtained ground-breaking decisions for the benefit of consumers, including in cases against Wells Fargo, Morgan Stanley and Kwikset.

RESULTS

CONSUMER SETTLEMENTS

Examples of the firm's settlements include:

In re Think Finance, LLC, et al., No. 17-33964-hdh11 (Bankr. N.D. Tex.). Berman Tabacco played a pivotal role in securing a partial settlement worth approximately \$56 million to date on behalf of consumers who took out unlawful, high-interest loans issued in the name of Native American-affiliated online lenders, Plain Green and Great Plains Lending. Plaintiffs allege that non-tribal entities and individuals, including a Texas-based payday lender called Think Finance, improperly attempted to use tribal sovereign immunity as a shield for their unlawful, triple-digit lending enterprise. The partial settlement represents a significant achievement given that the bulk of the recovery was secured through Chapter 11 bankruptcy proceedings that Think Finance initiated while litigation was pending against it, a step that typically leads to a substantially limited, if any, recovery for plaintiffs. Berman Tabacco continues to pursue claims against the non-settling defendants involved in the unlawful lending enterprise.

McLaughlin v. Wells Fargo Bank, N.A., d/b/a Wells Fargo Home Mortgage, No. 3:15-CV-02904 (N.D. Cal.). Berman Tabacco served as local counsel for a class of borrowers with mortgages held and serviced by Wells Fargo in an action alleging that the bank's payoff statements violated the Truth in Lending Act ("TILA") as they failed to disclose insurance claim funds. Plaintiffs achieved a precedent-setting opinion holding that TILA requires the bank to include insurance claim funds in its mortgage payoff statements. *See McLaughlin v. Wells Fargo Bank NA*, No. 3:15-cv-02904-WHA, 2015 WL 10889993 (N.D. Cal. Oct. 29, 2015). The case settled for 88% of the total maximum statutory damages available under TILA. The settlement also requires Wells Fargo to disclose insurance claim funds on all of its payoff statements going forward.

Trabakoolas v. Watts Water Technologies, Inc., No. 4:12-Cv-01172-Ygr (N.D. Cal.). Berman Tabacco served on the plaintiffs' steering committee and served as liaison counsel for this successful product liability design defect class action involving toilet nut connectors. Plaintiffs alleged a toilet connector manufactured by Watts Water Technologies, Inc., which had been installed in approximately 25 percent of homes and commercial properties built in the U.S. since the year 2000, suffered from a design defect. This defect could result in water flowing into the home, potentially causing catastrophic water damage. The settlement provided a fund of \$23 million to reimburse class members who experienced property damage and to pay for replacement of toilet nut connectors for those with allegedly defective parts.

Roskind v. Morgan Stanley Dean Witter & Co., 80 Cal. App. 4th 345 (Cal. App. 1st Dist. 2000). Berman Tabacco obtained a landmark ruling from the California Court of Appeal, holding that federal law does not preempt investors from bringing unfair business practices claims under the Business & Professions Code of

California. Defendant brought this matter to the U.S. Supreme Court but the firm was successful in upholding this ruling. See *Roskind v. Morgan Stanley Dean Witter & Co.*, 2000 Cal. Lexis 6583 (Aug. 16, 2000) (petition for review denied); *Morgan Stanley Dean Witter & Co. v. Roskind*, 531 U.S. 1119 (2001) (writ of certiorari denied).

Carlin v. DairyAmerica, Inc., No. 1:09-cv-00430 (E.D. Cal.). Berman Tabacco, as co-lead counsel, obtained a \$40 million on behalf of a class of dairy farmers who sold raw milk according to prices set by the federal government. Plaintiffs claimed that DairyAmerica, the nation's largest marketer of non-fat dry milk and a California-based milk processing firm, California Dairies, conspired to inflate their own profits at the expense of dairy farmers by misreporting critical data used by the government to set raw milk prices.

Kwikset Corp. v. Superior Court of Orange County; James Benson, Real Parties in Interest, No. S171845 (Cal.). Berman Tabacco represented three union clients as *amicus curiae* before the California Supreme Court in this consumer action alleging that Kwikset falsely labeled products as "Made in the USA." The California Supreme Court's ultimate opinion (*Kwikset Corp. v. Superior Court*, 51 Cal. 4th 310 (2011)), was highly favorable to consumers and became one of the leading opinions regarding standing under California's Unfair Competition Law.

LEADERSHIP ROLES

The firm currently acts as lead or co-lead counsel in high-profile securities, antitrust and consumer class actions and also represents investors in individual actions, ERISA cases and derivative cases.

The following is a representative list of active class action cases in which the firm serves as lead or co-lead counsel or as executive committee member.

- > *Hayden, et al. v. Portola Pharmaceuticals, Inc., et al.*, No. 2:19-cv-01227-ER (E.D. Pa.). Lead counsel for court-appointed lead plaintiff Alameda County Employees' Retirement Association.
- > *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 18-cv-04993-NRB (S.D.N.Y.). Lead counsel for court-appointed lead plaintiff Utah Retirement Systems.
- > *In re Apple Processor Litigation*, No. 18-cv-00147-EJD (N.D. Cal.). Co-lead counsel for a proposed nationwide class of purchasers of Apple devices, such as iPhones, iPads and Apple TVs.
- > *Teamsters Local 443 Health Services & Ins. Plan, et al. v. Chou (AmerisourceBergen Corp.)*, No. 2019-0816 (Del. Ch.). Counsel for San Antonio Fire & Police Pension Fund in derivative action involving AmerisourceBergen Corporation, which commenced by the issuance of a books and records demand, *San Antonio Fire & Police Pension Fund v. AmerisourceBergen Corp.*, C.A. No. 2018-0551 (Del. Ch.).
- > *In re UnitedHealth Section 220 Litigation*, C.A. No. 0681-TMR (Del. Ch.). Co-lead counsel representing plaintiff Amalgamated Bank.
- > *Massachusetts Laborers' Pension Fund v. Wells Fargo & Co., et al.*, C.A. No. 12997-VCG (Del. Ch. Ct.). Counsel for Massachusetts Laborers' Pension Fund and the Employees' Retirement System of the City of Providence in action under Section 220 of the Delaware General Corporation Law in

order to evaluate whether the facts support a derivative suit on behalf of Wells Fargo against its officers and directors for breaches of their fiduciary duties.

- > *Oliver, et al. v. American Express Co., et al.*, No. 1:19-cv-00566-NGG-SMG (S.D.N.Y.). Co-Chairs of Plaintiffs' Executive Committee of interim class counsel in antitrust class action.
- > *Norfolk County Retirement System v. Smith (Sinclair Broadcast Group Derivative Action)*, No. 18-cv-03952 (D. Md.). Plaintiffs' Counsel representing Norfolk County Retirement System in this shareholder derivative action.
- > *Sullivan v. Barclays PLC*, No. 13-cv-2811 (S.D.N.Y.). Counsel for plaintiffs and represents California State Teachers' Retirement System.
- > *Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y.). Counsel for plaintiffs and represents California State Teachers' Retirement System and Oklahoma Police Pension and Retirement System.
- > *In re Mexican Government Bonds Antitrust Litigation*, No. 18-CV-02830 (JPO) (S.D.N.Y.). Counsel for Oklahoma Firefighters Pension & Retirement System and Electrical Workers Pension Fund Local 103, I.B.E.W.
- > *In re European Government Bonds Antitrust Litigation*, No. 19-cv-2601 (S.D.N.Y.). Interim Co-Lead Counsel and Counsel for plaintiff San Bernardino County Employees' Retirement Association.
- > *In re California Gasoline Spot Market Antitrust*, No. 3:20-cv-03131-JSC (N.D. Cal.). Chair of Plaintiffs' Executive Committee and counsel for plaintiffs.

TRIAL EXPERIENCE

The firm has significant experience taking class actions to trial. Over the years, Berman Tabacco's attorneys have tried cases against pharmaceutical companies in courtrooms in New York and Boston, a railroad conglomerate in Delaware, one of the nation's largest trustee banks in Philadelphia, a major food retailer in St. Louis and the top officers of a failed New England bank.

The firm has been involved in more trials than most of the firms in the plaintiffs' class action bar. Our partners' trial experience includes:

- > *In re PHC, Inc. Shareholder Litigation*, No. 1:11-cv-11049-PBS (D. Mass.). After two-week trial in 2017 in this breach of fiduciary class action, jury verdict for plaintiffs but no damage award. Following post-trial briefing, court exercised its equitable power and ordered \$3 million award by defendant.
- > *Conway v. Licata*, No. 13-12193 (D. Mass.). 2015 jury verdict for defendants (firm's client) after two-week trial on the vast majority of counts, awarding the plaintiffs a mere fraction of the damages sought. Jury also returned a verdict for defendants on one of their counterclaims.
- > *In re MetLife Demutualization Litigation*, No. 00-Civ-2258 (E.D.N.Y.). This case settled for \$50 million after the jury was empaneled.

- > *White v. Heartland High-Yield Municipal Bond Fund*, No. 00-C-1388 (E.D. Wis.). Firm attorneys conducted three weeks of a jury trial against final defendant, PwC, before a settlement was reached for \$8.25 million. The total settlement amount was \$23.25 million.
- > *In re Disposable Contact Lens Antitrust Litigation*, MDL No. 1030 (M.D. Fla.). Settled for \$60 million with defendant Johnson & Johnson after five weeks of trial.
- > *Gutman v. Howard Savings Bank*, No. 2:90-cv-02397 (D.N.J.). Jury verdict for plaintiffs after three weeks of trial in individual action. The firm also obtained a landmark opinion allowing investors to pursue common law fraud claims arising out of their decision to retain securities as opposed to purchasing new shares. See *Gutman v. Howard Savings Bank*, 748 F. Supp. 254 (D.N.J. 1990).
- > *Hurley v. Federal Deposit Insurance Corp.*, No. 88-cv-940 (D. Mass.). Bench verdict for plaintiffs.
- > *Levine v. Fenster*, No. 2-cv-895131 (D.N.J.). Plaintiffs' verdict of \$3 million following four-week trial.
- > *In re Equitec Securities Litigation*, No. 90-cv-2064 (N.D. Cal.). Parties reached a \$35 million settlement at the close of evidence following five-month trial.
- > *In re ICN/Viratek Securities Litigation*, No. 87-cv-4296 (S.D.N.Y.). Hung jury with 8-1 vote in favor of plaintiffs; the case eventually settled for over \$14.5 million.
- > *In re Biogen Securities Litigation*, No. 94-cv-12177 (D. Mass.). Verdict for defendants.
- > *Upp v. Mellon*, No. 91-5219 (E.D. Pa.). In this bench trial, tried through verdict in 1992, the court found for a class of trust beneficiaries in a suit against the trustee bank and ordered disgorgement of fees. The Third Circuit later reversed based on lack of jurisdiction.

OUR ATTORNEYS

Partners

DANIEL E. BARENBAUM



A partner in the firm's San Francisco office and member of the firm's Executive Committee, Daniel Barenbaum focuses his practice on securities litigation. Mr. Barenbaum was one of the lead attorneys representing the California Public Employees' Retirement System in the landmark case brought against the major credit rating agencies (Standard & Poor's and Moody's) in connection with the marketing of one of the largest, most complex structured-finance securities ever devised. The case settled for a total of \$255 million. He also represented co-lead plaintiff for the common stock class

Massachusetts Pension Reserves Investment Management Board in a case that settled for \$170 million against Fannie Mae; the complaint centered on misrepresentations regarding the amount of subprime and Alt-A on the company's books and the lack of adequate risk controls used and disclosed to manage those types of loans. Further, Mr. Barenbaum regularly represents institutional investor clients in matters involving multi-party issues/disputes and complex discovery (for documents, individual depositions, and institutional "person most knowledgeable" depositions of key executives), including matters where they stand to collect millions of dollars as potential beneficiaries of certain government agencies' investigations or civil actions.

Mr. Barenbaum is one of the lead partners for the team representing the sole Lead Plaintiff Alameda County Employees' Retirement Association in *Hayden v. Portola Pharmaceuticals Inc., et al.*, No. 3:20-cv-00367-VC (N.D. Cal.)—securities litigation brought on behalf of investors in Portola Pharmaceuticals, Inc., a biopharmaceutical company that develops and commercializes treatments for thrombosis and other hematologic diseases. Portola's primary product is Andexxa, a reversal drug for apixaban- and rivaroxaban-treated patients with life-threatening or uncontrolled bleeding. The action alleges that, between January 8, 2019 and February 26, 2020, defendants issued materially false and misleading statements related to the sales of Andexxa. Lead Plaintiff's complaint alleges violations of Sections 10(a) and 20(a) of the Securities Exchange Act of 1934, and Sections 11, 12(a)(2), and 15 of the Securities Act of 1933. The company is alleged to have made material misrepresentations and related omissions about (1) its compliance with GAAP, specifically as to recognizing revenue under ASC-606 and under-reserving for returns given that Portola's product Andexxa had a short-shelf-life and the company therefore offered a generous return policy on all expired product; and (2) customer demand and utilization of Andexxa for those that purchased it (e.g., hospital and hospital-system pharmacies), both as to depth (regularity of usage) and breadth (types of bleeds prescribed for). On January 20, 2022, the Court denied Defendants' motion to dismiss Lead Plaintiff's Third Amended Consolidated Class Action Complaint. Defendants' answers are due on March 3, 2022, and the case is now in the discovery phase.

Mr. Barenbaum also regularly represents institutional investor clients in matters involving multi-party issues/disputes and complex discovery (for documents, individual depositions, and institutional "person most knowledgeable" depositions of key executives), including matters where they stand to collect millions of dollars as potential beneficiaries of certain government agencies' investigations or civil actions.

Mr. Barenbaum has been an integral member of the firm's litigation teams, such as for *In re International Rectifier Securities Litigation*, No. 07-cv-02544 (C.D. Cal.), where the firm acted as co-lead counsel representing the Massachusetts Laborers' Pension Fund for an alleged accounting fraud that originated at the company's foreign subsidiary. Mr. Barenbaum was also a key member of the team that developed the firm's individual-case strategy necessitated by the Supreme Court's decision in *Morrison v. National Australia Bank, Ltd.*, 561 U.S. 247, 130 S. Ct. 2869 (2010), in *In re BP, p.l.c. Securities Litigation*, No. 10-md-2185 (S.D. Tex.). Mr. Barenbaum previously worked to prepare for trial *In re MetLife Demutualization Litigation*, No. 00-Civ-2258 (E.D.N.Y.) – a case before the Hon. Jack Weinstein that settled after the jury was empaneled.

Mr. Barenbaum was formerly an associate and partner at Lief, Cabraser, Heimann & Bernstein, LLP where he was a member of the securities practice group and actively litigated, among other cases, two state-court individual securities actions involving large-scale accounting fraud. The first was against McKesson HBOC, where the firm represented two Merrill Lynch mutual funds and that alleged state law claims; the case settled days before trial was to commence. The second involved Peregrine, where the firm represented individual directors whose company had been acquired by Peregrine and whose options and shares had been converted to Peregrine shares. Mr. Barenbaum worked on all facets of litigation in those cases, from dispositive motions to discovery to appeals to oral argument.

At Lief Cabraser, Mr. Barenbaum was a supervising partner on the firm's Vioxx injury cases, where the firm had a leadership role in the large multidistrict litigation. In that role, Mr. Barenbaum oversaw service pursuant to the Hague Convention of hundreds of Vioxx complaints against foreign (U.K) defendants and also acted as the primary point of contact for all foreign co-counsel. Prior to that, Mr. Barenbaum was the lead associate on the Sulzer Hip Implant injury cases, where he oversaw the service of hundreds of Sulzer complaints against foreign defendants in several countries (including Switzerland).

Mr. Barenbaum has been ranked by *Benchmark Litigation* as a *California State Litigation Star* (2020-2022), *San Francisco Local Litigation Star* (2020-2022), and *Noted Star* (2020-2021) in *Plaintiff Work and Securities*. In 2020, *The Legal 500* reported a client's praise for Mr. Barenbaum stating that he "is top-notch with superb attention to detail when drafting papers, arguing motions and negotiating." He has also been selected as a *Super Lawyer* by *Northern California Super Lawyers* magazine (2020-2022).

Mr. Barenbaum is the author of *Delineating Covered Class Actions Under SLUSA, Securities Litigation Report* (December-January 2005); co-author of *The Currency of Capitalism With a Social Conscience*, *Financier Worldwide Magazine* (June 2018); *Snap Judgment—S&P Dow Jones and FTSE Russell Indices Ensure That Investors Retain Voting Rights*, *Financier Worldwide Magazine* (October 2017); and *Class Certification of Medical Monitoring Claims in Mass Tort Product Liability Litigation* (Leader Publications, 1999); and Contributing Author to *California Class Actions Practice and Procedures* (Elizabeth J. Cabraser, Editor-in-Chief, 2003). Having successfully obtained his Series 7 and 66 licenses, he was previously registered with the U.S. Securities and Exchange Commission as both a broker-dealer representative and an investment advisor.

Mr. Barenbaum earned his J.D. and M.B.A. degrees from Emory University in 2000, where he received the business school award for *Most Outstanding Academic Accomplishment*. He obtained his B.A. in English from Tufts University in 1994. Mr. Barenbaum was Notes and Comments Editor for 1999-2000 for the *Emory Bankruptcy Developments Journal*.

Mr. Barenbaum is a member in good standing of the state bar of California, as well as the Northern, Central, Southern and Eastern Districts of California. He is also admitted to the Ninth Circuit of the U.S. Court of Appeals and has been admitted *pro hac vice* in federal and state courts around the country.

NORMAN BERMAN



In 1982, Norman Berman co-founded Berman Tabacco & Pease LLP, a predecessor to Berman Tabacco. He focuses his practice principally on complex securities and antitrust litigation. He also oversees and coordinates the firm's mergers and acquisitions litigation practice.

During the course of his career, Mr. Berman has litigated numerous cases to successful resolution, recovering many millions of dollars on behalf of defrauded investors. He was among the lead attorneys in the *In re Philip Services Corp. Securities Litigation*; *In re Force Protection Inc. Securities Litigation* and the *ICG Communications, Inc.* class actions. In the case against Philip Services, Mr. Berman assisted in recovering a \$79.75 million settlement in this alleged fraud at a Canadian company, which gave rise to issues of foreign discovery. Until recently, that settlement includes the largest recovery ever obtained from a Canadian auditor. In the class action against Force Protection, he assisted in securing a \$24 million settlement. In *ICG Communications*, he helped to successfully secure an \$18 million settlement. Co-lead plaintiffs in the case alleged that ICG executives misled investors and misrepresented ICG's growth, revenues and network capabilities throughout the class period.

Mr. Berman was also part of the team that achieved a \$750 million recovery in *Carlson v. Xerox Corp.*, in which the firm represented the Louisiana State Employees' Retirement System as co-lead counsel. Mr. Berman coordinated and conducted discovery, including a massive document review, in that international fraud class action. At the time, the recovery was the 10th largest securities class action settlement in history.

Mr. Berman has acted as trial counsel in a number of successful cases, including *Hurley v. Federal Deposit Insurance Corp.*, where the court entered an \$18 million judgment against the failed First Service Bank for Savings, and *ICN Securities Litigation*, which settled after trial for more than \$14.5 million in 1996. The trial team's work in *ICN* prompted positive judicial comment. Mr. Berman also acted as a senior member of the trial team in the case of *In re Biogen Securities Litigation* and as a member of the trial team in *In re Zila Inc. Securities Litigation*, which settled during trial preparation, *Poughkeepsie Savings Bank v. Morash* and other matters.

Prior to co-founding Berman DeValerio & Pease, LLP in 1982, Mr. Berman was associated with the Boston-based general practice firms Barron & Stadfeld, P.C. and Harold Brown & Associates.

Mr. Berman is AV Preeminent® rated by Martindale-Hubbell®, has been designated a *Local Litigation Star in Securities* by *Benchmark Litigation* in 2013-2015 and 2017-2022 and has been named a *Super Lawyer* by *Massachusetts Super Lawyers Magazine* in 2004-2006 and every year since 2009. He was also selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2021).

Mr. Berman is co-author of a chapter on expert testimony in a handbook on Massachusetts Evidence published by Massachusetts Continuing Legal Education.

Mr. Berman graduated from Boston University in 1970 and from Suffolk University Law School in 1974. While in law school, he was a member of the Public Defenders Group and, following law school, was an intern with the Massachusetts Defenders Committee.

Mr. Berman is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts and the state of Connecticut and is also admitted to practice before the U.S. Supreme Court, as well as the U.S. District Courts for the District of Arizona, the Northern District of California, the District of Colorado and the Eastern District of Wisconsin.

STEVEN J. BUTTACAVOLI



A partner in the firm's Boston office, Steven J. Buttacavoli focuses his practice on securities and RICO class action litigation.

At Berman Tabacco, Mr. Buttacavoli was among the partners who represented lead plaintiff Utah Retirement Systems in securities class action litigation, *Koch v. Healthcare Services Group, Inc., et al.*, No. 2:19-cv-01227-ER (E.D. Pa.). The case settled for \$16.8 million, which was approved by the court on January 12, 2022. He is also among the partners representing the lead plaintiff in a derivative action brought against certain directors and offices of Cigna Corporation, *Massachusetts Laborers' Annuity Fund v. Cordani, et al.*, C.A. No. 2020-0990-JTL (Del. Ch.), where he played a central role in drafting Plaintiff's opposition to defendants' motions to dismiss.

Mr. Buttacavoli was one of the lead attorneys who managed day-to-day litigation activities on behalf of the Ohio Public Employees Retirement System, co-lead plaintiff in *In re BP p.l.c. Securities Litigation*. Mr. Buttacavoli assisted in drafting the amended complaint, drafting the opposition to defendants' motion to dismiss, drafting plaintiffs' motion for class certification, drafting summary judgment and *Daubert* briefs, and led fact and expert discovery efforts in this matter. The court granted final approval to a \$175 million settlement in BP class action in February 2017. Mr. Buttacavoli represented four Ohio pension funds in connection with the litigation and settlement of *Ohio Public Employees Retirement System, et al. v. BP plc*, No. 12-cv-1837 (S.D. Tex.), a separate, individual action filed against BP in connection with the funds' purchase of BP ordinary shares on the London Stock Exchange. He also helped coordinate lead plaintiff's investigation and analysis of securities fraud claims against the General Electric Co., drafted the consolidated amended complaint in a class action against the company, drafted lead plaintiff's opposition to defendants' motions to dismiss and subsequent briefing with the court and conducted discovery in that matter, which settled for \$40 million in 2013. Mr. Buttacavoli also helped coordinate lead plaintiff's investigation and analysis of securities fraud claims against the former top executives of BankUnited, drafted the consolidated amended complaint and opposition to defendants' motions to dismiss and drafted materials prepared in connection with the mediation and settlement of *In re BankUnited Securities Litigation*. Mr. Buttacavoli also advises whistleblowers in connection with the reporting of potential securities violations to the U.S. Securities and Exchange Commission and has advised numerous clients regarding potential claims involving custodian banks' foreign currency exchange pricing practices. He represented whistleblowers in connection with the drafting and submission of an application for an SEC whistleblower

award that resulted in an award of over \$50 million, which was the second-largest SEC whistleblower award at the time.

In addition to his securities litigation practice, Mr. Buttacavoli is a lead member of the Berman Tabacco team that pioneered the prosecution of nationwide federal RICO class actions against the operators and financial backers of allegedly unlawful online lending schemes that attempt to circumvent federal and state law through sham relationships with Native American tribes. These efforts resulted in significant settlements for the benefit of the victims of those schemes, including *Solomon, et al. v. American Web Loan, Inc., et al.*, No. 17-cv-145 (E.D. Va.) (which settled for a total value of over \$186 million, including \$86 million in cash, cancelation of over \$100 million in outstanding debt, and other non-monetary and injunctive relief) and *Gingras, et al. v. Victory Park Capital Advisors, LLC, et al.*, No. 17-cv-00233 (D. Vt.), *Gingras, et al. v. Rosette, et al.*, No. 15-cv-101 (D. Vt.), and *Granger, et al. v. Great Plains Lending, LLC, et al.*, No. 1:18-cv-00112 (M.D.N.C.) (which led to over \$47 million in settlements).

Prior to joining Berman Tabacco in 2009, Mr. Buttacavoli worked as an associate at major corporate law firms in Boston, where he defended securities class actions and U.S. Securities and Exchange Commission enforcement actions, conducted internal investigations, responded to criminal investigations by the United States Attorney's Office, and advised clients in connection with litigation risk analysis and mitigation strategies.

Mr. Buttacavoli was ranked as a *Super Lawyer* by *Massachusetts Super Lawyers Magazine* in 2021.

Mr. Buttacavoli earned an A.B. in International Relations from the College of William & Mary and a Master of Public Policy degree from Georgetown University. In 2001, he earned his J.D., *magna cum laude*, from the Georgetown University Law Center, where he was a member of the Order of the Coif. Mr. Buttacavoli was also a Senior Articles and Notes Editor for the *American Criminal Law Review*.

Mr. Buttacavoli is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts and the United States Courts of Appeals for the First, Second, Third, Fourth, and Eleventh Circuits.

KATHLEEN M. DONOVAN-MAHER



Kathleen M. Donovan-Maher is a member of the firm's Executive Committee and manages the Boston office. She became a partner at Berman Tabacco in 1999 and, in addition to managing the firm, she focuses her work in the firm's securities and whistleblower practices.

During her career, Ms. Donovan-Maher has successfully helped to prosecute numerous class actions. She led the day-to-day prosecution of the litigation against General Electric Co., which settled for \$40 million in 2013.

Ms. Donovan-Maher also served as discovery captain in the *NASDAQ Market Makers Antitrust Litigation*, which settled for \$1.027 billion and was a member of the trial team in the *ICN/Viratek Securities Litigation*, which settled for \$14.5 million after the jury deadlocked at the conclusion of the 1996 trial. Other cases in which Ms. Donovan-Maher has played a chief role include, but are not limited to, *In re BankUnited Securities Litigation*, *In re American Home Mortgage*, *Wyatt v. El Paso Corp.*, *In re*

Enterasys Networks, Inc. Securities Litigation and *In re SmartForce/SkillSoft Securities Litigation*. In all cases, Ms. Donovan-Maher's efforts helped achieve significant financial recoveries for such public retirement systems as the State Universities Retirement System of Illinois, Oklahoma Police Pension & Retirement System, the Los Angeles County Employees Retirement Association and the Teachers' Retirement System of Louisiana.

In addition to a monetary award, the *Enterasys Networks* settlement also included corporate governance improvements, requiring the company to back a proposal to eliminate its staggered board of directors, allow certain large shareholders to propose candidates to the board and expand the company's annual proxy disclosures.

In *In re Centennial Technologies Litigation*, Ms. Donovan-Maher secured a \$207 million judgment against defendant Emanuel Pinez, Centennial's founder and former CEO and Chairman of the Board of Directors who was the primary architect of one of the largest financial frauds in Massachusetts history at the time.

Martindale-Hubbell[®] has rated her AV Preeminent[®] and selected her for the *Martindale-Hubbell*[®] 2013 *Bar Register of Preeminent Women Lawyers*[™]. She was also selected as one of *New England's Top-Rated Lawyers* by *Martindale-Hubbell*[®] (2013, 2018-2020), as featured in *The National Law Journal*. *Martindale-Hubbell*[®] also selected her as a *Top-Rated Litigator* (2019) and as one of its *Women Leaders In Law* (2021). She has also been designated by *Benchmark Litigation* as a *Local Litigation Star* (2013-2015, 2021-2022) and was recognized as a *Benchmark Plaintiff Top 150 Women in Litigation*. She has also been designated as a *Super Lawyer* by *Massachusetts Super Lawyers* magazine (2004-2005, 2020-2021). She was also selected as one of the *Top Lawyers of 2021* by *Boston Magazine* and was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2021).

Ms. Donovan-Maher is a frequent author on continuing legal education issues for such groups as ALI-ABA and PLI. She is also a member of Phi Delta Phi, Delta Mu Delta National Honor Society in Business Administration, Omicron Delta Epsilon International Honor Society of Economics, the American Bar Association and the Boston Bar Association.

Ms. Donovan-Maher graduated from Suffolk University *magna cum laude* in 1988, receiving a B.S. degree in Business Administration, concentrating in Finance with a minor in Economics. Ms. Donovan-Maher earned an award for maintaining the highest grade point average among students with concentrations in Finance. She graduated from Suffolk University Law School three years later after serving two years on the *Transnational Law Review*.

Ms. Donovan-Maher is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts, and she is admitted to practice law in the U.S. District Court for the District of Massachusetts, the U.S. Supreme Court and the U.S. Courts of Appeals in the First, Second, Third, Fourth and Eleventh Circuits.

PATRICK T. EGAN



A partner in Boston, Patrick T. Egan focuses his practice on securities litigation. Mr. Egan has litigated numerous cases to successful resolution, recovering hundreds of millions of dollars on behalf of defrauded investors.

Mr. Egan was one of the firm's lead attorneys representing the Wyoming State Treasurer and Wyoming Retirement System in the *In re IndyMac Mortgage-Backed Securities Litigation* in which the firm achieved settlements totaling \$346 million. He was also a lead attorney representing the Michigan State Retirement Systems in the *In re Bear Stearns Companies* litigation stemming

from the 2008 collapse of the company. Plaintiffs successfully recovered \$294.9 million for former Bear Stearns shareholders.

Mr. Egan has worked on a number of important cases, including *Lernout & Hauspie* and the related case, *Quaak v. Dexia, S.A. (In re Lernout & Hauspie Sec. Litig., No. 00c-11589 (D. Mass.), and Quaak v. Dexia, S.A., No. 03-11566 (D. Mass.)*. Those cases stem from a massive accounting fraud scheme at Lernout & Hauspie Speech Products, N.V., a bankrupt Belgian software company. As co-lead counsel, the firm recovered more than \$180 million on behalf of former Lernout & Hauspie shareholders. In addition, Mr. Egan was one of the attorneys at Berman Tabacco representing CalPERS against credit ratings agency Moody's, based on Moody's misrepresentations regarding the creditworthiness of three structured investment vehicles, which settled for \$255 million. *California Public Employees' Ret. Sys. v. Moody's Corp., No. CGC-09-490241 (Cal. Super. Ct. San Francisco County)*. Recently, Mr. Egan served as a lead partner (i) representing the sole Lead Plaintiff Utah Retirement Systems ("URS") in *Koch v. Healthcare Services Group, Inc., et al., No. 2:19-cv-01227-ER (E.D. Pa.)*, a class action that alleged that defendants issued materially false and misleading statements and failed to disclose "earnings management" practices that allowed HCSG to consistently meet or beat earnings per share estimates that, in turn, caused the price of the company's stock to be artificially inflated (case settled for \$16.8 million, which was approved by the court on January 12, 2022); and (ii) representing the sole Lead Plaintiff Oklahoma Police Pension and Retirement System in *Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc., et al., No. 2:20-cv-10490 (E.D. Mich.)*, a class action which alleged that defendants issued materially untrue and misleading statements concerning, *inter alia*, the Sterling's loan underwriting, risk management, compliance and internal controls, including regarding the Company's Advantage Loan Program, the Company's largest lending program (case settled for \$12.5 million, which was approved by the court on September 23, 2021).

Mr. Egan currently serves as one of the partners representing sole Lead Plaintiff Alameda County Employees' Retirement Association in *Hayden v. Portola Pharmaceuticals, Inc., et al., No. 3:20-cv-00367-VC (N.D. Cal.)*, a class action brought on behalf of investors in Portola Pharmaceuticals, Inc. ("Portola"), a biopharmaceutical company that develops and commercializes treatments for thrombosis and other hematologic diseases. The complaint alleges that defendants issued materially false and misleading statements related to the sales of Andexxa, Portola's primary product, a reversal drug for apixaban- and rivaroxaban-treated patients with life-threatening or uncontrolled bleeding. In addition, currently, Mr. Egan is one of the lead attorneys for the firm representing: (i) plaintiffs and the \$240 billion pension fund California State Teachers' Retirement System in the ongoing *Euribor (Sullivan v. Barclays PLC, et al., No. 13-cv-2811 (S.D.N.Y.))* and *Yen Libor (Laydon v. Mizuho Bank, Ltd., No. 1:12-cv-03419 (GBD) (S.D.N.Y.))*, and *Sonterra Capital Master Fund, Ltd. v. UBS AG, No. 1:15-cv-05844 (GBD) (S.D.N.Y.))* antitrust cases involving U.S., European, and Japanese banks' manipulation of interest rate benchmarks and agreements to fix bid-ask

spread prices on interest rate derivatives (*Euribor* has yielded \$491.5 million in settlements to date, and *Yen Libor* \$307 million); and (ii) Orange County Employees' Retirement System in *Dennis v. JP Morgan Chase & Co.*, No. 16-cv-06496-LAK (S.D.N.Y), an ongoing antitrust class action alleging that U.S., European, and Australian banks manipulated the interest rate benchmark used to price derivatives that were denominated in Australian dollars and sold to U.S. investors.

Mr. Egan also represents whistleblowers who provide information and assistance to the U.S. Securities and Exchange Commission, U.S. Commodities Futures Trading Commission, U.S. Internal Revenue Service and state regulators in connection with their enforcement of the federal and state laws. Mr. Egan also represents whistleblowers in actions filed under the Federal False Claims Act.

Prior to joining the firm in 1999 and being named partner in 2006, Mr. Egan worked at the U.S. Department of Labor, where he served as an attorney advisor for the Office of Administrative Law Judges. Mr. Egan was also an Adjunct Faculty member of the Business Studies department at Assumption College, where he taught a course on Corporate Governance and White-Collar Crime.

Mr. Egan has been ranked by *Benchmark Litigation* as a *Local Litigation Star* (2013-2015, 2021-2022) and as a *Massachusetts State Litigation Star* (2018-2020) in *Competition* and *Securities*.

Mr. Egan received a B.A. in Political Science *cum laude* from Providence College in 1993. In 1997, he graduated *cum laude* from Suffolk University Law School. While at Suffolk, Mr. Egan served on the editorial board of the *Suffolk University Law Review* and authored a note entitled, *Virtual Community Standards: Should Obscenity Law Recognize the Contemporary Community Standard of Cyberspace*, 30 Suffolk University L. Rev. 117 (1996).

Mr. Egan is a member in good standing in the Commonwealth of Massachusetts, the states of Connecticut and New York, as well as the U.S. District Courts for the District of Massachusetts, the Southern District of New York, Eastern District of New York and the Eastern District of Michigan. He is also admitted to practice before the U.S. Supreme Court and U.S. Courts of Appeals in the First, Second and Fourth Circuits.

STEVEN L. GROOPMAN



Steven L. Groopman is a partner in the firm's Boston office who focuses his practice on securities, RICO, and ERISA litigation. Currently, Mr. Groopman is a key member of the litigation team currently prosecuting federal RICO class actions against the operators and financial backers of allegedly unlawful online lending schemes that attempt to circumvent federal and state law through sham relationships with Native American tribes. *Solomon, et al. v. American Web Loan, Inc., et al.*, No. 17-cv-145 (E.D. Va.), *Gingras, et al. v. Victory Park Capital Advisors, LLC, et al.*, No. 17-cv-00233 (D. Vt.) and *Gingras, et al. v. Rosette, et al.*, No. 15-cv-101 (D. Vt.). He is also a key member of the

litigation team in *In re EpiPen ERISA Litigation*, No. 17-CV-1884 (PAM/SER) (D. Minn.), representing a class of EpiPen purchasers that have sued major pharmacy benefit managers ("PBMs") over the massive price increases of the EpiPen and alleging the PBMs breached their fiduciary duties under ERISA.

Mr. Groopman joined Berman Tabacco in June 2015 after serving as a law clerk to the Honorable Dickinson R. Debevoise, on the U.S. District Court for the District of New Jersey, and working as an associate at a New York law firm.

Massachusetts Super Lawyers Magazine named Mr. Groopman a *Rising Star* in 2017-2021.

Mr. Groopman received an A.B. in Political Science *magna cum laude* from Brown University in 2005. In 2009 he graduated from George Washington University Law School.

Mr. Groopman is a member in good standing in the Commonwealth of Massachusetts, the state of New York, as well as the U.S. District Courts for the Southern District of New York, the Eastern District of New York and the District of Massachusetts.

CARL HAMMARSKJOLD



A partner in the firm's San Francisco office, Carl Hammarskjold focuses his practice on antitrust and securities cases. Mr. Hammarskjold represents the firm's clients and class plaintiffs in several financial market manipulation and antitrust class actions on behalf of investors alleging that major banks colluded to fix the prices of bonds and derivatives. These cases include *In re Mexican Government Bonds Antitrust Litigation*, No. 18-cv-02830 (S.D.N.Y.), *Euribor (Sullivan v. Barclays PLC, et al.)*, No. 13-cv-2811 (S.D.N.Y.), *Yen Libor (Sonterra Capital Master Fund, LTD. v. UBS AG, et al.)*, No. 15-cv-5844 (S.D.N.Y.), *Australian Dollar (Dennis, et al. v. JPMorgan Chase & Co., et al.)*,

No. 16-cv-06496 (S.D.N.Y.), and *In re GSE Bonds Antitrust Litigation*, No. 19-cv-01704 (S.D.N.Y.). Plaintiffs in *GSE Bonds* reached settlements with all defendants totaling \$386.5 million. He also represents the firm's client and class plaintiffs in a nationwide antitrust class action on behalf of direct purchasers of lithium ion rechargeable batteries that resulted in settlements totaling \$139.3 million. *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-02420-YGR (N.D. Cal.).

Mr. Hammarskjold also represents Lead Plaintiff and class plaintiffs in *Sterling Bancorp, Inc. Securities Litigation (Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc, et al.)*, No. 5:20-Cv-10490-JEL-EAS (E.D. Mich.), which recently settled for \$12.5 million, which was approved by the court on September 23, 2021.

During his prior work in the plaintiffs' bar, Mr. Hammarskjold represented class plaintiffs in *Kleen Products, LLC, et al. v. Packaging Corp. of America, et al.*, No. 10-cv-05711 (N.D. Ill.) (containerboard antitrust litigation) and was part of the appellate team whose work resulted in a published Ninth Circuit opinion in *Bozzio v. EMI Group Ltd, et al.*, No. 13-15685 (9th Cir.).

Prior to joining Berman Tabacco in 2018, Mr. Hammarskjold worked for a San Francisco-based plaintiffs' law firm specializing in antitrust class actions and other complex, multidistrict litigation in federal court. He was also a business litigator at a large, national law firm.

Mr. Hammarskjold serves on the Executive Committee of the Antitrust & Business Regulation Section of the San Francisco Bar Association.

Mr. Hammarskjold is rated AV Preeminent® by *Martindale-Hubbell*® and was selected by *Northern California Super Lawyers* magazine as a *Rising Star* in 2016-2021. He was also recognized in *The Best Lawyers in America*® for *Mass Tort Litigation / Class Actions – Plaintiffs* (2021-2022).

Mr. Hammarskjold earned his J.D., *summa cum laude*, from the University of San Francisco School of Law, where he graduated first in his class and received the Academic Excellence Award for Extraordinary Contribution to the Intellectual Life of the School. During law school, he served as an extern for the Honorable William H. Alsup at the U.S. District Court for the Northern District of California. Mr. Hammarskjold has a B.A. from Pomona College.

Mr. Hammarskjold is a member in good standing of the state bar of California, the U.S. District Court for the Northern and Central Districts of California, and the Ninth Circuit of the U.S. Court of Appeals.

CHRISTOPHER T. HEFFELFINGER



Christopher T. Heffelfinger, a partner in Berman Tabacco's San Francisco office, has devoted most of his professional career to pursuing justice on behalf of those who have been harmed by financial fraud and anticompetitive-unfair trade practices. For over thirty (30) years, Mr. Heffelfinger has worked collaboratively as co-lead and participatory counsel in a variety of cases many industries in both securities and antitrust matters.

Mr. Heffelfinger has run a number of PSLRA cases including *In re Warnaco Group Inc. Securities Litigation*, No. 00-CIV-06266 (S.D.N.Y.), where he represented Fresno County Employees' Retirement Association, which settled for \$12.85 million following reversal of dismissal by the Second Circuit. Mr. Heffelfinger also has extensive experience in securities class actions generally, having prosecuted, for example, *In re Avant! Securities Litigation*, No. 96-cv-20132 (N.D. Cal.) (recovering \$35 million for the class, almost 50% of losses, net of attorneys' fees and expenses). Mr. Heffelfinger participated as counsel in *In re LDK Solar Securities Litigation*, No. C-07-05182-WHA (N.D. Cal.), a case alleging an inventory accounting fraud by this Chinese company regarding its treatment of different grades poly-silicon used in the production of solar panels. He participated in all phases of discovery including deposition practice in Hong Kong, expert work, summary judgment and trial preparation. *LDK Solar* settled for \$13 million. Similarly, Mr. Heffelfinger was requested by lead counsel in *In re Broadcom Corp., Securities Litigation*, No. 01-cv-00275 (C.D. Cal.), to conduct a series of depositions (fact and expert) in a securities case alleging the improper accounting treatment of warrants used by Broadcom to make acquisitions of other companies. *Broadcom* settled for \$150 million.

Mr. Heffelfinger has also served as co-lead or participatory counsel in the following cases: In *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation (Indirect Case)*, No. M:02-cv-01486 (N.D. Cal.), Mr. Heffelfinger was appointed by the Special Master, Ret. U.S. District Court Judge Charles B. Renfrew, to serve as settlement allocation counsel for indirect reseller purchasers in DRAM. The case obtained final approval, with the Special Master acknowledging in his Report and Recommendations to the Court that the efforts by the parties to resolve the allocation issues were an essential link in the sequence of negotiations that culminated in the proposed plan of distribution. Mr. Heffelfinger was also the lead partner for the firm in the prosecution of *In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation*, MDL No. 05-1671 (C.D. Cal.) which alleged that defendants manipulated the California gas market for summertime

reformulated gasoline and artificially increased prices for consumers. As co-lead counsel, the firm achieved a settlement valued at \$48 million. Chris was also an integral member of the team representing toy purchaser consumers as co-lead counsel in *In re Toys "R" Us Antitrust Litigation* (USDC-ED NY. 2000), a Federal Multi District Litigation alleging that Toys "R" Us had conspired with certain toy manufacturers to not sell certain popularly promoted toys to deep discount retailers such as Costco, in contravention of the antitrust laws and various state unfair competition/practices statutes. The team achieved a settlement with a combined value of \$56 million.

Mr. Heffelfinger was named a *Super Lawyer* by *Northern California Super Lawyers* magazine every year since 2009 and he has an *AV Preeminent*[®] rating by *Martindale-Hubbell*[®]. He has also been recognized in *The Best Lawyers in America*[®] for *Litigation-Antitrust* (2018-2022) and in *Northern California Best Lawyers* for *Litigation-Antitrust* (2021) and was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2021). He has also been recognized by *Global Competition Review's Who's Who Legal: Competition* (2021).

Mr. Heffelfinger served on active duty as an infantry officer in the U.S. Marine Corps, 1977-80, and again for nine months in 1990-1991 as a Captain with a rifle company in support of Operations Desert Shield/Storm. He has lectured periodically on discovery matters, including electronically stored information, deposition practice and evidentiary foundations in commercial litigation.

Mr. Heffelfinger received his B.A. in Economics from Claremont McKenna College in 1977 and his J.D. from the University of San Francisco School of Law in 1984.

Mr. Heffelfinger is a member in good standing of the state bar of California, the U.S. District Court for the Northern, Eastern, Central and Southern Districts of California, the U.S. District Court for the District of Arizona and the Ninth Circuit U.S. Court of Appeals.

NICOLE LAVALLEE



Nicole Lavallee, the managing partner of the firm's San Francisco office and member of the firm's Executive Committee, focuses her practice on prosecuting securities and derivative actions. She is also an integral member of the firm's New Case Investigations Team, which oversees the firm's portfolio monitoring program and investigates potential securities law violations to determine whether a case meets the firm's exacting standards.

Since the enactment of the PSLRA, Ms. Lavallee has prosecuted numerous high-profile securities fraud cases for the firm. For example, she was one of the lead attorneys overseeing the *In re IndyMac Mortgage-Backed Securities Litigation*, No. 09-cv-4583 (S.D.N.Y.), which settled for \$346 million – one of the largest private MBS recoveries on record and the largest of any case where the issuer bank was in bankruptcy.

Over the years, Ms. Lavallee has been the lead partner managing the day-to-day prosecution of numerous other cases, where she handled or oversaw case investigation and factual development and briefing (including appeal briefing), conducted depositions, argued key motions (including motions to dismiss, motions for summary judgment and/or discovery motions), and participated in settlement negotiations.

Examples that resulted in favorable judicial commentary include: (i) *In re KLA-Tencor Corp. Securities Litigation*, No. C06-04065 (N.D. Cal.), an options-backdating class action, representing co-lead plaintiff the Louisiana Municipal Police Employees' Retirement System, which settled for \$65 million; (ii) *In re International Rectifier Securities Litigation*, No. 07-cv-02544 (C.D. Cal.), on behalf of the co-lead plaintiff Massachusetts Laborers' Pension Fund, alleging manipulation of the company's financial results, which settled for \$90 million in 2009; and (iii) *Oracle Cases*, Coordination Proceeding, Special Title (Rule 1550(b)), No. JCCP 4180 (Cal. Super. Ct. San Mateo Cty.), a derivative case alleging that Lawrence Ellison engaged in illicit insider trading, and which settled weeks before trial when Defendant Larry Ellison agreed to make \$100 million in charitable donations in Oracle's name.

Ms. Lavalée also represented numerous institutional clients in opt-out actions, including *State of Oregon v. McKesson HBOC, Inc.*, Master File No. 307619 (Cal. Super. Ct. San Francisco Cty.), an individual opt-out action brought on behalf of the retirement systems for Colorado, Utah, and Minnesota, and opt-out actions on behalf of State of Michigan Retirement System and Fresno County Employees' Retirement Association against Countrywide Financial Corp. (*State Treasurer of The State of Michigan v. Countrywide Financial Corp.*, No. CV-11-00809 (C.D. Cal.) and *Fresno County Employees Retirement Association v. Countrywide Financial Corp.*, No. CV-11-00811 (C.D. Cal.)). She has also worked on several securities-fraud trials over the past 25 years.

Currently, Ms. Lavalée is a lead partner at Berman Tabacco on several class action securities fraud cases. She is overseeing *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 18-cv-04993-NRB (S.D.N.Y.), where the firm is lead counsel representing lead plaintiff the Utah Retirement Systems and has reached a proposed partial settlements with two of the four defendants for a total of \$29.8 million plus cooperation, which were preliminarily approved by the court on June 3, 2022; and *Hayden v. Portola Pharmaceuticals, Inc., et al.*, No. 3:20-cv-00367-VC (N.D. Cal.), in which the firm is lead counsel representing court-appointed lead plaintiff Alameda County Employees' Retirement Association. She is also co-lead counsel representing court-appointed lead plaintiff Plymouth County Retirement Association in *In re Aqua Metals, Inc. Securities Litigation*, No. 4:17-CV-07142-HSG (N.D. Cal.), an action alleging that defendants Aqua Metals, Inc. and company executives falsely misled investors about the status of its implementation of and operations of its AquaRefining technology, which the company claimed had the potential to revolutionize lead recycling and make lead-acid batteries the only truly sustainable battery technology. The case settled for \$7 million, which was approved by the court on March 2, 2022. Further, Ms. Lavalée is also involved in the prosecution of several derivative actions including *Teamsters Local 443 Health Services & Ins. Plan, et al. v. Chou*, No. 2019-0816 (Del. Ch.), involving AmerisourceBergen Corp. asserting that the Company's executives breached their fiduciary duties in connection with the Company's subsidiary's alleged illegal scheme to produce and market unapproved prefilled syringes ("PFS") in violation of federal and state laws. In 2017, Amerisource entered a guilty plea related to the alleged illegal PFS scheme and has paid more than \$875 million in penalties and fines to settle related civil and criminal claims.

In 2021 and 2022, Ms. Lavalée was ranked by *Chambers USA* in California under *Litigation-Securities*, which quoted an opposing counsel as stating that "Nicole is a good adversary, she is smart and puts up a good fight for her clients." She has been ranked by *Benchmark Litigation* as a *California State Litigation Star* (2020-2022), *San Francisco Litigation Star* (2020-2022), and *Noted Star* (2019-2020) in *Plaintiff Work and Securities*. She was also recognized in *The Best Lawyers in America*® for *Litigation-Securities* (2021-2022) and in the *Northern California Best Lawyers* for *Litigation-Securities* (2021). In 2021, Nicole was ranked as one of the *Top Women Lawyers* in California by the *Daily Journal*. *Northern California Super Lawyers* magazine named her to their lists of the *Top 100* attorneys in California (2021) and the *Top 50*

Women attorneys in California (2021). She has also been named a *Super Lawyer* by *Northern California Super Lawyers* magazine (2017-2022) and was included in *San Francisco Magazine's Top Women Attorneys in Northern California* (2017-2021). Ms. Lavalley has an AV Preeminent® rating from *Martindale-Hubbell®* and was selected for the *Martindale-Hubbell® Bar Register of Preeminent Women Lawyers™*. *Martindale-Hubbell®* also selected her as a *Top-Rated Litigator* (2019) and as one of its *Women Leaders In Law* (2021). Ms. Lavalley was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2021).

Ms. Lavalley has authored numerous articles and lectured on securities litigation. She was co-chair for the 2016 Cross-Border Litigation Forum, a gathering of the most senior legal practitioners in U.S./Canada cross-border litigation (was also on the Steering Committee for the 2012 and 2014 forums), and she is currently on the Steering Committee for the 2020 Cambridge Forum on Plaintiffs' Class Action Litigation (where she previously served on the Steering Committee for the 2019 forum). Further, Ms. Lavalley is active in the Bar Association of San Francisco ("BASF"), serving on the Steering Committee of the Women's Impact Network: No Glass Ceiling 2.0 and as a Member of BASF's Policy Impact Working Group of the Women's Impact Network.

A native of Canada, Ms. Lavalley is a 1989 graduate of the French Civil Law School at Université de Montréal and obtained her a Common Law degree from Osgoode Hall Law School in Toronto in 1991. She received her undergraduate degree in Health Sciences and in Pure and Applied Sciences from Vanier College in Montreal in 1986.

Ms. Lavalley is a member in good standing of the state bar of California, all federal courts in the Ninth Circuit and the Ninth Circuit of the U.S. Courts of Appeals.

KRISTIN J. MOODY



Kristin J. Moody is a partner in the firm's San Francisco office, where she focuses her practice on securities litigation. She has successfully litigated numerous class actions that have resulted in substantial settlements for defrauded investors.

Currently, Ms. Moody serves as one of the lead partners for the team prosecuting *In re Aqua Metals, Inc. Securities Litigation*, No. 4:17-cv-07142-HSG (N.D. Cal.), a securities class action against Aqua Metals, Inc. and certain of its former executives. The case alleges that the defendants engaged in a widespread fraud to mislead investors about, among other things, the implementation and operations of the Company's purportedly proven AquaRefining technology that would supposedly revolutionize the \$22 billion lead acid battery recycling business. The case settled for \$7 million, which was approved by the court on March 2, 2022. She is also one of the partners prosecuting *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 18-cv-04993-NRB (S.D.N.Y.), a case in which the firm is Lead Counsel representing sole Lead Plaintiff, Utah Retirement Systems in a securities fraud class action lawsuit against Aegean Marine Petroleum Network, Inc. ("Aegean"), a marine fuel logistics company based in Greece that supplies and markets refined marine fuel and lubricants to ships in port and at sea, and several former officers. To date, the parties have reached proposed partial settlements with two of the four defendants for

a total of \$29.8 million plus cooperation, which were preliminarily approved by the court on June 3, 2022. The case is ongoing as to the remaining, non-settling defendants.

Ms. Moody was lead partner for the team prosecuting *Oklahoma Police Pension & Retirement System v. Sterling Bancorp, Inc, et al.*, No. 5:20-cv-10490-JEL-EAS (E.D. Mich.), a securities fraud class action lawsuit against Sterling Bancorp, Inc., certain of its current and former officers and directors, and the underwriters for the Company's initial public offering (the "IPO"). The case was brought on behalf of investors who purchased or otherwise acquired Sterling common stock from November 17, 2017 through and including March 17, 2020 (the "Class Period"), including shares sold in the IPO. Sterling, headquartered in Southfield, Michigan, is the unitary thrift holding company of Sterling Bank and Trust which specializes in residential mortgages. The case alleges that defendants issued materially untrue and misleading statements concerning, *inter alia*, the Company's loan underwriting, risk management, compliance and internal controls, including regarding the Company's Advantage Loan Program, the Company's largest lending program which the Company completely shut down by the end of the Class Period. The case reached a settlement of \$12.5 million, which was approved by the court on September 23, 2021. Ms. Moody also represented lead plaintiff in *In re Zynga, Inc. Securities Litigation*, where she investigated and drafted the complaint and successful opposition to the motion to dismiss, conducted discovery, and participated in mediation. The case reached a settlement of \$23 million. Ms. Moody also investigated and drafted the consolidated amended complaint in a class action against General Electric Co., certain of its officers and directors, and underwriters of its public offering; drafted lead plaintiff's opposition to defendants' motions to dismiss and subsequent briefing with the court; and conducted discovery in the matter. The case settled for \$40 million. Further, Ms. Moody assisted in the litigation of *In re BP p.l.c. Securities Litigation*, where she helped draft the amended complaint and the successful opposition to defendants' motion to dismiss. BP and Lead Plaintiffs for the "post-explosion" class reached a settlement in the amount of \$175 million.

Ms. Moody also served as lead partner for the firm in *McLaughlin v. Wells Fargo Bank, N.A.*, No. 3:15-cv-02904-WHA (N.D. Cal.), which achieved a precedent-setting opinion holding that Wells Fargo Bank, NA is required under the Truth in Lending Act ("TILA") to indicate the amount of property insurance proceeds held by the bank on plaintiff customer's payoff statement. The litigation ultimately attained a settlement which provided \$880,000 to the damages class (more than \$2,900 for each damages class member), which is 88% of the total maximum statutory damages that could have been recovered if fully litigated. The settlement also requires Wells Fargo to disclose insurance claim funds on all of its payoff statements going forward, which is a benefit beyond what could have been achieved at trial. Ms. Moody also managed litigation, coordinated and conducted discovery, counseled clients, and participated in mediation in *In re Force Protection Securities Litigation*, which settled for \$24 million. Ms. Moody further coordinated and conducted discovery, counseled the client, and participated in mediation in litigation against International Rectifier Corp. and several of its former officers and directors for an alleged fraud at a foreign subsidiary, which settled for \$90 million. In addition, Ms. Moody participated in the motion to dismiss briefing and mediation in *In re American Home Mortgage Securities Litigation*, which settled for \$37.25 million, despite the difficulties American Home's bankruptcy posed to asset recovery.

Prior to joining Berman Tabacco, Ms. Moody practiced at Holland & Knight, LLP in Boston and Morrison & Foerster, LLP in San Francisco. While at Morrison & Foerster, Ms. Moody represented clients in complex commercial litigation matters with a focus on securities litigation. At Holland & Knight, she represented clients in a range of white-collar criminal matters, government and regulatory investigations, and complex civil litigation, including securities litigation. Ms. Moody has also represented clients in a number of *pro bono* matters, including discrimination and political asylum cases.

Ms. Moody was selected as a *Super Lawyer* by *Northern California Super Lawyers* magazine (2020-2022) and was included in *San Francisco Magazine's Top Women Attorneys in Northern California* (2020-2021). She was also selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2021).

Ms. Moody has published several articles in the areas of accounting fraud, securities class actions, and derivative suits. She has also taught business law courses at Fisher College and previously sat on the Fisher College Advisory Board. Ms. Moody has also served as an Advisory Board member for the non-profit Generation Citizen.

Ms. Moody earned an LL.M. from New York University School of Law in 2003, a J.D., *cum laude*, from Boston College Law School in 1999, and a B.A., *cum laude*, in English and Legal Studies from Bucknell University in 1995. While in law school, she was Notes and Comments Editor of the Boston College International and Comparative Law Review and was active in the Women's Law Center.

Ms. Moody is a member in good standing in the Commonwealth of Massachusetts, the state of California, and is also admitted to practice in the U.S District Court for the Northern, Central, Eastern and Southern Districts of California, the U.S. District Court for the District of Massachusetts, the Eastern District of Michigan, and the U.S. Courts of Appeals for the First, Third, Ninth, and Federal Circuits.

NATHANIEL L. ORENSTEIN



A partner in the firm's Boston office, Nathaniel L. Orenstein focuses his practice on securities and antitrust litigation. He is currently engaged in a number of matters to ensure that corporate directors' meet their fiduciary obligations to their shareholders. Most recently, Mr. Orenstein successfully prosecuted in *Norfolk County Retirement System v. David D. Smith*, Civ. No. 1:18-cv-03952 (D. Md.) a case concerning a merger between Sinclair Broadcast Group and Tribune Media Company that was blocked by the U.S. Department of Justice ("DOJ") and the U.S. Federal Communications Commission ("FCC") because Sinclair proposed "sham" divestiture

transactions to the FCC and "engaged in misrepresentation and/or lack of candor" with respect to those related party transactions. The settlement provided far-reaching benefits to Sinclair and its shareholders, including substantial corporate governance reforms, comprised of, among other things, the creation of two new board committees, along with nearly \$25 million in financial recovery – including a rare \$5 million personal contribution from Sinclair's controlling shareholder. In approving the settlement, the Court noted that "[i]n this case, plaintiffs' counsel secured an excellent settlement that includes significant corporate governance reforms that would not have resulted from a trial on the merits."

Mr. Orenstein's representative cases also include: *In re Bluegreen Corporation Shareholder Litigation*, No. 502011CA018111 (15th Judicial Cir., Florida) (\$36.5 million settlement and \$80 million in benefit to class secured to date as member of Executive Committee); *In re TPC Group, Inc. Shareholders' Litigation*, No. 7865-VCN (Delaware Chancery) (\$79 million benefit to class while co-lead counsel); *Louisiana Municipal Police Employees' Retirement System v. EnergySolutions, Inc.*, C.A. No. 8350-VCG (Delaware Chancery) (\$36 million benefit to class as co-lead counsel); *In re El Paso Corporation Shareholder Litigation*, No. 6949-CS (Delaware Chancery) (\$110 million benefit to class as member of Executive

Committee); *In re American Home Mortgage Securities Litigation*, No. 07-MD-1898 (E.D.N.Y.) (\$37.25 million benefit to class as member of litigation team); *In re Force Protection Inc. Securities Litigation*, No. 2:08-cv-845 CWH (D.S.C.) (\$24 million benefit to class as member of litigation team); and *In Re: Nexium (Esomeprazole) Antitrust Litigation*, No. 12-md-02409-WGY (D. Mass.) (\$24 million benefit to class secured to date as local counsel).

Prior to joining Berman Tabacco, Mr. Orenstein was a staff attorney for the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts. While there, he performed company examinations as well as investigated and pursued enforcement actions to detect and prevent fraud at hedge funds and related companies. Mr. Orenstein was the lead attorney on many investigations and actions against broker-dealers, investment advisors and others.

Prior to obtaining his J.D. from the New York University School of Law in 2005, Mr. Orenstein served as a member of the mutual fund and insurance brokerage investigation teams for the Office of the New York State Attorney General's Investment Protection Bureau. As a legal intern, he assisted with the Bureau's investigation work including, case planning, discovery and settlement negotiation.

In addition to his work for the Commonwealth and for New York State, Mr. Orenstein was the Associate Director for the Center for Insurance Research, a consumer advocacy organization. In this role, he supported Center attorneys in litigating complex insurance reorganization transactions. He also testified in regulatory and legislative proceedings on behalf of policyholders concerning market conduct and insurance rate setting.

Benchmark Litigation has ranked Mr. Orenstein as a *Massachusetts Future Star* (2021-2022) and *Massachusetts Super Lawyers Magazine* named him a *Super Lawyer* (2020-2021) and a *Rising Star* (2014-2015).

Mr. Orenstein earned a J.D. from New York University School of Law in 2005, and a B.A. in Economics from Bates College in 1997.

Mr. Orenstein is a member in good standing in the Commonwealth of Massachusetts, the U.S. District Court for the District of Massachusetts and the U.S. Court of Appeals for the First Circuit.

MATTHEW D. PEARSON



A partner in the firm's San Francisco office, Matthew D. Pearson focuses his practice on securities, antitrust and consumer protection litigation. Mr. Pearson is an integral member of the firm's New Case Investigations Team and devotes a substantial amount of his time to evaluating and investigating potential new cases. Mr. Pearson also monitors foreign securities litigation, tracks developments in foreign class action and securities law, and assists clients interested in litigating abroad.

Since joining the firm in 2005, Mr. Pearson has served in key roles on a number of the firm's leading securities and antitrust cases. On the securities side, Mr. Pearson was part of the litigation team in *In re The Bear Stearns Cos. Inc. Securities, Derivative and ERISA Litigation*, Master

File No. 08-MDL No. 1963 (S.D.N.Y.), which resulted in settlements totaling \$294.9 million for aggrieved investors.

In his antitrust practice, Mr. Pearson was a prominent member of the firm's team leading the *In re New Motor Vehicles Canadian Export Antitrust Litigation*, No. 03-md-1532 (D. Me.), involving allegations that major automakers unlawfully conspired to stop the export of cheaper new Canadian vehicles into the United States. Mr. Pearson was involved in all aspects of this nationwide, multi-jurisdictional litigation, including discovery, class certification, extensive expert reports, summary judgment, appeals in multiple courts, and settlement. The federal case ended in 2009. Mr. Pearson currently represents car buyers in a related litigation in California state court, captioned *In re Automobile Antitrust Cases I and II*, JCCP Nos. 4298 and 4303 (San Francisco Superior Court), which continues against one remaining automaker defendant. To date, the firm has achieved settlements totaling over \$55 million for class members in the federal and California actions.

Mr. Pearson also assisted in the firm's efforts to achieve a historic \$295 million settlement with De Beers, where the firm represented a class of diamond resellers alleging De Beers unlawfully monopolized the worldwide supply of diamonds. The settlement was significant because, in addition to the \$295 million cash payment, the settlement included an agreement by De Beers to submit to the jurisdiction of the U.S. court to enforce the terms of the settlement and a comprehensive injunction limiting De Beers' ability to restrict the worldwide supply of diamonds in the future. The firm's work in this case – believed to be the first successful prosecution of De Beers under U.S. antitrust laws – serves as a template for corralling foreign monopolists.

Mr. Pearson co-authored an amicus brief submitted to the California Supreme Court on behalf of three unions in the *Kwikset* case, involving products falsely labeled as "Made in the USA." The California Supreme Court's ultimate opinion (*Kwikset Corp. v. Superior Court*, 51 Cal. 4th 310 (2011)), was highly favorable to our clients' interests and became one of the leading opinions regarding standing under California's Unfair Competition Law.

In 2021 and 2022, Mr. Pearson was selected as a *Super Lawyer* by *Northern California Super Lawyers* magazine.

Mr. Pearson received his law degree in 2004 from the University of California, Davis, School of Law, where he completed the King Hall Public Service Law Program. He completed his undergraduate studies at the University of California, Los Angeles, earning a Bachelor of Arts in Political Science, with an International Relations concentration.

Mr. Pearson is a member in good standing in the state bar of California, and the United States District Courts for the Northern, Central and Southern Districts of California.

TODD A. SEAVER



A partner in the San Francisco office, Todd A. Seaver litigates both antitrust and investment-related matters, with a primary focus on developing and litigating antitrust cases. He has led the day-to-day management of one of the largest antitrust class actions in history, and has litigated antitrust cases involving varied industries of high-tech, pharmaceuticals, autos, chemicals, consumer electronics, biotech, diamonds and online retailing. He is a leader of the firm's antitrust practice group, marshalling the firm's extensive investigative resources and then litigating the cases.

Currently, Mr. Seaver is co-lead counsel for consumer plaintiffs in an antitrust class action against American Express, *Oliver v. American Express Co.*, No. 1:19-cv-00566-NGG (E.D.N.Y.). The action is at the forefront of the payments industry and is now shaped by the landmark ruling in *Ohio v. American Express Co.*, 138 S. Ct. 2274 (2018), in which the U.S. Supreme Court articulated a new analytical framework for so-called "two-sided" markets.

Mr. Seaver is also presently counsel for plaintiffs and represents California State Teachers' Retirement System (CalSTRS) in the Euribor (*Sullivan v. Barclays PLC, et al.*, No. 13-cv-2811 (S.D.N.Y.)) and Yen Libor (*Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.)), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y.) antitrust cases involving Wall Street banks' manipulation of interest rate benchmarks and bid-ask spread price fixing on interest rate derivatives. He also currently represents Orange County Employees' Retirement System (OCERS) in an ongoing antitrust class action (*Dennis v. JP Morgan Chase & Co.*, No. 16-cv-06496-LAK (S.D.N.Y.)) alleging that U.S., European, and Australian banks manipulated the interest rate benchmark used to price derivatives that were denominated in Australian dollars and sold to U.S. investors. He also currently represents Fresno County Employees' Retirement Association (FCERA) in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-07789 (S.D.N.Y.), an antitrust class action against Wall Street banks for manipulating a foreign currency exchange rate benchmark and fixing bid-ask spreads on trillions of dollars of foreign currency exchange transactions.

He also leads plaintiffs' efforts in *In re New Motor Vehicles Canadian Export Antitrust Litigation*, in which Berman Tabacco is lead counsel. The case alleges that major auto manufacturers unlawfully conspired to stop the export of cheaper new Canadian vehicles into the United States for use or resale. The case has partially settled with Toyota Motor Sales U.S.A. for \$35 million and with General Motors of Canada for \$20.15 million. The litigation is ongoing in California state court, with the California Court of Appeal having recently reversed the trial court's grant of summary judgment in favor of defendant Ford Canada.

Mr. Seaver recently had a leading role in several cases, including, *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-2420-YGR (N.D. Cal.), where the firm was co-lead counsel for direct purchaser plaintiffs. Settlements were reached totaling \$139.3 million for the direct purchaser class (final approval on the last three settlements was granted on May 16, 2018). The lawsuit alleged that defendants, including LG, Panasonic, Sony, Hitachi and Samsung, participated in a conspiracy to fix the prices of lithium ion rechargeable batteries, which affected the prices paid for the batteries and certain products in which the batteries were used and which the defendants sold. Mr. Seaver argued and defeated motions to dismiss

and deposed fact witnesses and defendants' expert economist and made the oral argument in opposition to defendants' *Daubert* motions to exclude plaintiffs' expert economist's opinions at class certification.

Mr. Seaver led efforts for the firm in an action against Netflix and Wal-Mart, *In re Online DVD Rental Antitrust Litigation*, in which Berman Tabacco was among lead counsel. He was responsible for managing many aspects of discovery, class certification and summary judgment, as well as for achieving partial settlement with defendant Wal-Mart. He successfully argued in Ninth Circuit Court of Appeals for that case on an issue of first impression regarding the Class Action Fairness Act and settlements involving a mix of cash consideration and electronic store gift cards. He was also one of the lead counsel in *In re Optical Disk Drive Antitrust Litigation* and also worked on a number of the firm's high-profile cases including *Cardizem CD*, still the leading generic drug competition case, which settled in 2003 for \$80 million. In the *Cardizem CD* case, Berman Tabacco was co-lead counsel representing health insurer Aetna in an antitrust class action and obtained a pioneering ruling in the federal court of appeals regarding the "reverse payment" by a generic drug manufacturer to the brand name drug manufacturer. In a first of its kind ruling, the appellate court held that the brand name drug manufacturer's payment of \$40 million per year to the generic company for the generic to delay bringing its competing drug to market was a per se unlawful market allocation agreement. Today that victory still shapes the ongoing antitrust battle over competition in the pharmaceutical market.

Mr. Seaver spearheaded the landmark case against the major credit rating agencies (Standard & Poor's and Moody's), *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.). The case, filed on behalf of the nation's largest state pension fund, the California Public Employees' Retirement System (CalPERS), was groundbreaking litigation that held the rating agencies financially responsible for negligent misrepresentations in rating structured investment vehicles. Moody's and Standard & Poor's agreed to pay a total of \$255 million (\$130 million and \$125 million, respectively) to settle CalPERS' claim that "Aaa" ratings on three SIVs were negligent misrepresentations under California law. This case was groundbreaking in that (i) the settlements rank as the largest known recoveries from Moody's and S&P in a private lawsuit for civil damages; and (ii) it resulted in a published appellate court opinion finding that rating agencies can, contrary to decades of jurisprudence, be liable for negligent misrepresentations under California law for their ratings of privately-placed securities.

Mr. Seaver was previously associated with the law firm Devine, Millimet & Branch, P.A., where he practiced commercial litigation. He was an adjunct Professor of Law with the New England School of Law in 2003, teaching Appellate Advocacy.

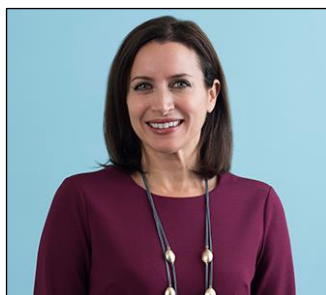
Mr. Seaver is a member of the American Bar Association's Antitrust Section and served a two-year term as a Director for the San Francisco Bar Association's Antitrust Committee in 2012-2013.

Mr. Seaver was ranked by *Benchmark Litigation* as a *California Litigation Star* (2022), *Local Litigation Star* (2019-2020, 2022), *California Future Star* (2020-2021), and *Noted Star* (2019-2021) in *Plaintiff Work and Securities*. He was also named a *Super Lawyer* by *Northern California Super Lawyers Magazine* (2017-2022), and has been recognized by *Global Competition Review's Who's Who Legal: Competition* (2017-2019). *Who's Who Legal* has also named Mr. Seaver a *Thought Leader* in *Competition* (2019-2020, 2022). He was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2021). In 2020, *The Legal 500* reported a client's praise for Mr. Seaver stating that he "displays deep knowledge of specialized finance."

Mr. Seaver graduated *magna cum laude* from Boston University in 1994 with a B.A. in International Relations. He earned a M.Sc. from the London School of Economics in 1995 and graduated *cum laude* from the American University Washington College of Law in 1999. While in law school, Mr. Seaver served as a law clerk at the Federal Trade Commission's Bureau of Competition and as a judicial extern for the Honorable Ricardo M. Urbina, U.S. District Court for the District of Columbia.

Mr. Seaver is a member in good standing in the Commonwealth of Massachusetts, the states of California and New Hampshire, as well as the U.S. District Courts for the District of Massachusetts, the District of New Hampshire, and the Northern, Eastern, Central and Southern Districts of California.

LESLIE R. STERN



A partner in Boston, Leslie R. Stern heads the New Case Investigations Team for institutional clients. The team investigates possible securities law violations, gauging clients' damages and evaluating the merits of cases to determine the best course of legal action.

In her role with the New Case Investigations Team, Ms. Stern oversees a portfolio monitoring program that combines the power of an online loss calculation system with the hands-on work of a dedicated group of attorneys, investigators and financial analysts. Her case development duties include preparing detailed case analyses and recommendations, and advising clients on their legal options.

Ms. Stern is a seasoned litigator with more than a decade of experience on cases such as *Carlson v. Xerox Corp.*, in which Berman Tabacco represented the Louisiana State Employees' Retirement System as co-lead counsel. Upon approval in January 2009, the \$750 million Xerox settlement ranked as the 10th largest securities class action recovery of all time. Ms. Stern also worked extensively on *In re Bristol Myers-Squibb Securities Litigation*, which settled for \$300 million. As part of the litigation team in *Giarraputo v. UNUMProvident Corp.*, No. 2:99cv00301 (D. Me.), Ms. Stern helped secure a \$45 million settlement in a lawsuit stemming from the merger that created UNUMProvident. She also has experience prosecuting derivative actions. She was a member of the litigation team in a derivative suit brought against the directors of Oxford Health Plans Inc. As co-lead counsel in the case, Ms. Stern and the Firm represented individual investors seeking to recover damages sustained by the company because of its directors' breaches of their fiduciary duties, gross mismanagement, corporate waste of assets and breach of duty of loyalty with respect to self-dealing stock transactions. Ms. Stern has also served on several trial teams, including *In re Biogen Sec. Litig.*, No. 94-cv-12177 (D. Mass.), and *In re Zila Inc. Sec. Litig.*, No. 99-cv-00115 (D. Ariz.), which settled during trial preparation. Ms. Stern was also one of the attorneys representing a Firm client in a class action against numerous financial institutions alleging that ten of the world's largest banks conspired to fix the prices of unsecured bonds issued by the government-sponsored agencies familiarly known as Federal National Mortgage Association ("Fannie Mae") and Federal Home Loan Mortgage Corporation ("Freddie Mac"). *City of Birmingham Retirement & Relief System, et al. v. Bank of America, N.A., et al.*, No. 1:19-cv-01704-JSR (S.D.N.Y.). The case settled for \$386.5 million. Currently Ms. Stern is also overseeing several breach of fiduciary duty actions.

Prior to joining Berman Tabacco in 1998 and being named partner in 2003, Ms. Stern practiced general civil litigation.

Ms. Stern is a member of both the National Association of Public Pension Attorneys and the National Association of Women Lawyers.

Ms. Stern was designated a *Local Litigation Star* by *Benchmark Litigation* in 2013-2015 and 2021-2022 and was recognized among the *Benchmark Plaintiff Top 150 Women in Litigation*. She was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2021).

She earned a B.S. degree in Finance from American University in 1991 and graduated *cum laude* from Suffolk University Law School in 1995. While at Suffolk, Ms. Stern served on the Suffolk University Law Review's editorial board and authored three publications.

Ms. Stern is a member in good standing in the Commonwealth of Massachusetts and the U.S. District Court for the District of Massachusetts. She has also been admitted to practice in the First and Fourth Circuits of the U.S. Courts of Appeals.

JOSEPH J. TABACCO, JR.



Joseph J. Tabacco, Jr., the founding member of Berman Tabacco's San Francisco office and member of the firm's Executive Committee, actively litigates antitrust, securities fraud, commercial high tech and intellectual property matters.

Prior to 1981, Mr. Tabacco served as senior trial attorney for the U.S. Department of Justice, Antitrust Division in both the Central District of California and the Southern District of New York. In that capacity, he had major responsibility for several criminal and civil matters, including the antitrust trial of *United States v. IBM*. Since entering private practice in the early 1980s, Mr. Tabacco has served as trial or lead counsel in numerous antitrust and securities cases and has been involved in all aspects of state and federal litigation. In private practice, Mr. Tabacco has also tried a number of securities cases, each of which resolved successfully at various points during or after trial, including *In re MetLife Demutualization Litigation* (settled after jury empaneled), *Gutman v. Howard Savings Bank* (plaintiffs' verdict after six-week trial), *In re Equitec Securities Litigation* (settled after six months of trial) and *In re Ramtek Securities Litigation*.

Mr. Tabacco currently oversees the firm's class action litigation teams in the firm's price-fixing/market manipulation cases alleging that major banks colluded to fix the prices of derivatives and other financial instruments by manipulating numerous financial benchmark rates. This includes representing California State Teachers' Retirement System, one of the country's largest public pension funds, in (i) *Sullivan v. Barclays PLC et al.*, No. 13-cv-2811 (S.D.N.Y.), a class action against numerous Wall Street banks for price-fixing financial instruments tied to the Euro Interbank Offered Rate (the "Euribor"), which has total approved settlements in the amount of \$491.5 million; and (ii) *Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y.), two related class actions against numerous financial institutions for price-fixing financial instruments tied to the London Interbank Offered Rate ("LIBOR") for the Japanese Yen and the Euroyen

Tokyo Interbank Offered Rate ("TIBOR"), which have total approved settlements in the amount of \$307 million.

Mr. Tabacco was one of the firm's lead attorneys representing the Wyoming State Treasurer and Wyoming Retirement System in the *In re IndyMac Mortgage-Backed Securities Litigation* in which the firm achieved settlements totaling \$346 million. He also oversaw *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.), the pioneering case that held credit rating agencies (Standard & Poor's and Moody's) financially responsible for their negligence in rating structured investment vehicles. After settling with both McGraw Hill Companies and Moody's, California Public Employees' Retirement System' total recovery for the case was \$255 million. Over the decades, Mr. Tabacco has prosecuted numerous securities fraud and antitrust cases against both domestic and international companies.

Mr. Tabacco recently oversaw *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-2420-YGR (N.D. Cal.), which achieved settlements in the total amount of \$139.3 million for a class of direct purchasers of lithium-ion rechargeable batteries (final approval on the last three settlements was granted on May 16, 2018). The lawsuit alleged that defendants, including LG, Panasonic, Sony, Hitachi and Samsung, participated in a conspiracy to fix the prices of lithium ion rechargeable batteries, which affected the prices paid for the batteries and certain products in which the batteries are used and which the defendants sell.

Since 2008, Mr. Tabacco has served as an independent member of the Board of Directors of Overstock.com, a publicly traded company internet retailer. He is Chair of the Board's Nominating & Corporate Governance Committee and also serves as a member of the Board's Audit and Compensation Committees. He has also served as a member of the American Antitrust Institute Advisory Board since 2008. He also frequently lectures and authors articles on securities and antitrust law issues and is a member of the Advisory Board of the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law and the Advisory Board of the Center for Law, Economics & Finance at the George Washington School of Law. Mr. Tabacco is also a former teaching fellow of the Attorney General's Advocacy Institute in Washington, D.C., and has served on the faculty of ALI-ABA on programs about U.S.-Canadian business litigation and trial of complex securities cases.

For 16 consecutive years, he has been among the top U.S. securities litigators ranked by *Chambers USA* (2007-2021) and is also AV Preeminent[®] rated by *Martindale-Hubbell*[®]. Mr. Tabacco has been featured by the *Daily Journal* as one of the *Top Antitrust Lawyers in California* in 2020, as one of the *Top Plaintiffs Lawyers in California* in 2017, and as one of California's top 30 securities litigators, a group chosen from both the plaintiff and defense bars. He was also recognized by *Global Competition Review's Who's Who Legal: Competition*, most recently in 2021 – a designation he has received for the past 8 years since the creation of the publication's Plaintiffs section. Additionally, for 19 consecutive years, Mr. Tabacco has been named a *Super Lawyer* by *Northern California Super Lawyers Magazine*, which features the top 5% of attorneys in the region (2004-2022). Additionally, Mr. Tabacco was ranked in the *Top 100 list* of attorneys in California in the *Northern California Super Lawyers Magazine* (2019-2022). He was ranked by *Benchmark Litigation* as a *California State Litigation Star* (2019-2022), *San Francisco Local Litigation Star* (2017-2022), *Noted Star in Plaintiff Work* (2020-2021), and *Noted Star in Antitrust, Intellectual Property, and Securities* (2019-2020). *The Best Lawyers in America*[®] recognized Joe as *Lawyer of the Year in Litigation-Securities* for 2022. He has further been recognized by *The Best Lawyers in America*[®] for *Litigation-Antitrust* (2018-2022) and for *Litigation-Securities* (2019-2022). He was also selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2021), as featured in *Lawdragon's The Plaintiff Issue*

magazine (2020-2021). Mr. Tabacco has also been singled out by a top defense attorney for exemplifying “the finest tradition of the trial bar.” In 2019, *Chambers USA* hailed Mr. Tabacco as “a formidable plaintiff-side litigator, with a wealth of experience handling securities class actions. A market source describes him as ‘a master of orchestrating lawsuits and striking settlements,’ adding: ‘He strikes fear in the heart of defendants.’” *Chambers* has previously noted a client’s praise for Mr. Tabacco: “His legal knowledge and skills are at the highest level. His combined intelligence and experience results in well-reasoned and thoughtful arguments to further our case.”

Mr. Tabacco earned a J.D., *with honors*, from George Washington School of Law in 1974, and a B.A. in Government from University of Massachusetts-Amherst in 1971.

Mr. Tabacco is a member in good standing in the states of California and New York, and the Commonwealth of Massachusetts, as well as the U.S. District Courts for all districts in California, the District of Massachusetts, the District of Colorado (currently inactive), Eastern District of Michigan, the Southern and Eastern Districts of New York, the District of Columbia (currently inactive), the First, Second, Third, Sixth and Ninth Circuits of the U.S. Courts of Appeal and the U.S. Supreme Court.

Associates

COLLEEN CLEARY



Colleen Cleary is an associate at the San Francisco office of Berman Tabacco, who focuses her practice on antitrust litigation. Ms. Cleary joined the firm in 2018 after working as a class action litigator in the Bay Area primarily representing consumers harmed by anticompetitive conduct.

Ms. Cleary earned her Juris Doctorate degree from the University of San Francisco’s School of Law in 2015, and concurrently earned a Master’s in Business Administration from the University of San Francisco’s School of Management. During law school, she was awarded the Best Oral Advocate

Award in the school’s annual moot court competition, served as a member of the National Moot Court Competition team, and earned a Business Honors Certificate upon graduation. In addition, Ms. Cleary was recognized with the CALI Excellence for the Future Award in European Union Economic Law and was a member of the *University of San Francisco Law Review*.

While in law school, Ms. Cleary gained experience prosecuting antitrust cases. She worked at the Federal Trade Commission, investigating anticompetitive civil mergers in the health care industry, and the Department of Justice’s Antitrust Division, assisting in the prosecution of criminal price-fixing conspiracies.

Ms. Cleary was recognized in *The Best Lawyers in America*® for *Mass Tort Litigation / Class Actions – Plaintiffs* (2021-2022). Northern California *Super Lawyers* magazine named Ms. Cleary a Rising Star in 2021 and 2022. She was also included in *San Francisco Magazine’s Top Women Attorneys in Northern California* in 2021.

Ms. Cleary earned a B.A. in English Literature from the University of San Francisco in 2010.

Ms. Cleary is a member in good standing of the state bar of California and the U.S. District Court for the Northern District of California.

CHRISTINA GREGG



Christina Gregg is an associate at the Boston office of Berman Tabacco where she litigates complex civil actions seeking financial justice for consumers and investors. Ms. Gregg focuses her practice on securities and complex civil litigation.

Ms. Gregg is a 2021 graduate of Suffolk University Law School. While in law school, Ms. Gregg interned with the Massachusetts Attorney General's Office in the Environmental Protection Division, where she assisted in both regulatory enforcement and consumer protection actions against entities including

ExxonMobil and Bayer AG. She also served as a legal intern for the Honorable David A. Lowy of the Massachusetts Supreme Judicial Court.

In law school, Ms. Gregg served as managing editor of the Suffolk Law Journal of Trial & Appellate Advocacy and president of the Environmental Law Society. She also participated in a number of moot court competitions, including the Irving R. Kaufman Securities Law Moot Court Competition and Hon. Walter H. McLaughlin Appellate Advocacy Competition.

During law school, she served as a student attorney with the Suffolk Law Prosecutor's Program, working in the Juvenile Unit of the Suffolk County District Attorney's Office. She also served as a teaching fellow with the Marshall-Brennan Constitutional Literacy Project in a Boston public school.

Ms. Gregg earned a B.A. in Journalism and Political Science from the University of Massachusetts Amherst in 2014.

Ms. Gregg is a member in good standing of the state bar of Massachusetts and the U.S. District Court for the District of Massachusetts.

A. CHOWNING POPPLER



Chowning Poppler focuses her practice on securities, derivative, and consumer litigation. Some of Ms. Poppler's representative cases include *Carlin v. DairyAmerica*, No. 09-cv-00430 (E.D. Cal.), *In re Aegean Marine Petroleum Network Inc. Securities Litigation*, No. 1:18-cv-04993 (S.D.N.Y.), *In re Alphabet, Inc. Shareholder Derivative Litigation*, No. 19-cv-341522 (Santa Clara Superior Court), and *Teamsters Local 443 Health Services and Insurance Plan v. John G. Chou, et al.*, C.A. No. 2019-0816-SG (Del. Ch.). She also has experience advising and working with public pension funds in complex litigation and discovery matters.

Prior to joining the firm in 2015, Ms. Poppler established her practice as a class action litigator at a San Francisco law firm representing workers in employment-related matters in state and federal court.

Staying current on trends in the securities arena has further strengthened Ms. Poppler's practice. She is co-author of several articles, including *The Currency of Capitalism with a Social Conscience* (June 2018) and *Snap Judgment – S&P Dow Jones and FTSE Russell Indices Ensure that Investors Retain Voting Rights* (October 2017), both of which were published in *Financier Worldwide Magazine*.

Northern California *Super Lawyers* magazine named Ms. Poppler a Rising Star in 2017-2022. She was also included in *San Francisco Magazine's Top Women Attorneys in Northern California* in 2017-2021. She was also recognized in *The Best Lawyers in America*® for *Mass Tort Litigation / Class Actions – Plaintiffs* (2021-2022) and *Northern California Best Lawyers under Ones To Watch for Mass Tort Litigation / Class Actions – Plaintiffs* (2021).

Ms. Poppler graduated from the University of Southern California with a Bachelor of Arts degree in Political Science and Social Science-Economics. She received her Juris Doctor from the University of San Diego School of Law in 2010, where she was a member of the *San Diego International Law Journal*. While in law school, Ms. Poppler interned at the Public Integrity Bureau of the State of New York Office of the Attorney General where she investigated alleged corruption and fraud in local governments. She also oversaw and coordinated volunteers to assist tenants facing eviction, while serving on her law school's Pro Bono Legal Advocates board. Ms. Poppler's commitment to social justice is ongoing; she has served on the board of the ACLU of Northern California since 2018.

Ms. Poppler is a member in good standing of the state bar of California and the U.S. District Courts for the Northern, Central, and Eastern Districts of California, as well as the U.S. Court of Appeals for the Ninth Circuit.

JEFF ROCHA



Jeff Rocha is an associate in Berman Tabacco's San Francisco office, handling matters in the area of securities litigation. Prior to joining the firm in 2019, Mr. Rocha focused his practice on commercial litigation in the areas of corporate and healthcare fraud, unfair business practices, professional liability, consumer protection, and employment and labor law. He enjoys trial experience and has successfully mediated several cases to resolution.

Mr. Rocha also has substantial experience in the prosecution of complex insurance fraud *qui tam* actions. In that capacity, he assisted a legal team responsible for obtaining millions of dollars in civil judgments against individuals and entities involved in widespread criminal conspiracies.

Northern California Super Lawyers magazine named Mr. Rocha a *Rising Star* in 2018-2022.

Mr. Rocha attended law school at the University of San Francisco, where he graduated *cum laude* and received a business law certificate with honors. During his studies, he earned a CALI Award of Excellence for the Future in Contracts and served as a judicial extern for three San Francisco judges, including a federal magistrate at the United States District Court for the Northern District of California.

Before studying law, Mr. Rocha earned a B.S. in Business Administration with a concentration in Corporate Finance from California State University, Fresno. After completing his undergraduate studies, Mr. Rocha worked for a national brokerage firm as a series 7 and 63 licensed senior stockbroker.

He is a member in good standing of the state bar of California and the U.S. District Courts for the Northern, Central, and Eastern Districts of California.

CHRISTINA M. SARRAF



An associate in the firm's San Francisco office, Christina Sarraf focuses her practice on securities litigation. Prior to joining the firm in 2022, she worked as an associate in the San Francisco office of the nation's largest injury firm where she represented consumers in class action litigation in both state and federal court. Ms. Sarraf played an important role in a variety of high-profile privacy, automotive, and other consumer product cases against major tech companies and automobile manufacturers.

Prior to her complex litigation experience, Ms. Sarraf has also advised Silicon Valley startups on corporate compliance and intellectual property protection. Christina earned her J.D. at the University of New Mexico School of Law. While in law school, Ms. Sarraf externed at the Sixth District Court of Appeal for the State of California and clerked at Bay Area Legal Aid in San Francisco and various private firms in New Mexico. Before law school, Ms. Sarraf was a legal assistant and later paralegal at a law firm in her hometown in New Mexico.

Ms. Sarraf was appointed to the Advisory Council to the Women in Leadership, Professional Development Program offered by Regional & Continuing Education at CSU, Chico. She is admitted to practice in the State of California and is pending admission to practice in the U.S. District Court for the Northern, Central, Eastern, and Southern Districts of California.

DANIELLE SMITH



An associate in the firm's San Francisco office, Danielle focuses her practice on securities litigation. Ms. Smith joined Berman Tabacco in 2022 after working as an associate at another law firm, where she similarly focused primarily on securities litigation. She played a critical role in a variety of high-profile cases on behalf of clients in various industries, including the finance, pharmaceutical, and biotech spheres, in both state and federal courts.

Ms. Smith has been a member of the Council of Institutional Investor (CII), National Association of Public Pension Attorneys (NAPPA) and the Association of Certified Fraud Examiners, and formerly served as the Legal Redress Chair of the Oakland NAACP.

Ms. Smith earned a J.D. from Harvard Law School in 2012, and a B.A. from Columbia University in 2009. While in law school, Ms. Smith participated in Harvard's Consumer Protection Clinic, where she assisted local community members in combating predatory lending and other unfair practices.

Ms. Smith is a member in good standing of the state bar of California, and the U.S. District Courts for the Northern District of California, the Central District of California, and the Southern District of California.

ALEX VAHDAT



Alex Vahdat focuses his practice on antitrust and securities litigation. Prior to joining the firm in 2022, Mr. Vahdat worked as an associate in a law firm focusing on commercial and employment litigation. Before that, he worked as an associate at a San Francisco law firm where he represented plaintiffs in consumer class action matters and whistleblowers in qui tam actions.

Mr. Vahdat is a graduate of the University of California, Davis, where he earned his J.D. from the School of Law in 2012 and a B.A. in Political Science in 2007. While in law school, Mr. Vahdat interned at the San Francisco

District Attorney's Office and the U.C. Davis School of Law Civil Rights Clinic, where he represented indigent clients alleging civil rights abuses. Mr. Vahdat was an editor for the UC Davis Business Law Journal and participated in moot court competitions. Before law school, Mr. Vahdat worked as a paralegal in a law firm representing plaintiffs in consumer class litigation and claims involving the Truth in Lending Act.

Mr. Vahdat is admitted to practice law in the State of California and the U.S. District Courts for the Northern, Central, Southern, and Eastern Districts of California.

Of Counsel

JAY ENG



Jay Eng is Of Counsel to the firm. Mr. Eng has over 14 years of experience in securities litigation, including actions brought under the PSLRA, individual and opt-out cases and mergers and acquisition litigation filed on behalf of public pension funds and retail investors. Mr. Eng has been involved in all aspects of the prosecution of such cases, including case evaluation, strategic planning, trial preparation, court appearances, settlement negotiations and jury trials.

Mr. Eng played a key role in several of the firm's most prominent cases. In *In re IndyMac Mortgage-Backed Securities Litigation*, No. 09-Civ. 04583

(S.D.N.Y.), the firm represented the Wyoming State Treasurer and the Wyoming Retirement System and negotiated settlements totaling \$346 million in connection with claims concerning the misrepresentation of IndyMac mortgage loan underwriting practices. In *In re El Paso Securities Litigation*, H-02-2717 (S.D. Tex.), the firm represented the Oklahoma Firefighters Pension & Retirement System against El Paso stemming from misrepresentations of its natural gas and oil reserves. This case resulted in a settlement totaling \$285 million, including \$12 million from auditors PricewaterhouseCoopers. In *In re Reliant Securities Litigation*, No. 02-cv-1810 (S.D. Tex.), the firm represented the Louisiana Municipal Police Employees' Retirement System against Reliant Energy, and later its subsidiary, Reliant Resources, in connection with accounting improprieties in the energy trading business. The firm negotiated a \$75 million cash settlement from Reliant and its accountant Deloitte & Touche LLP.

Mr. Eng was also on the trial team in *White v. Heartland High-Yield Municipal Bond Fund*, No. 00-C-1388 (E.D. Wis.), which was one of the few cases to go to trial after the passage of the PSLRA. Following three weeks of trial, the firm obtained an \$8.25 million settlement against Heartland's auditor PricewaterhouseCoopers. Mr. Eng also worked on a number of matters on behalf of the firm's public pension fund clients including: *In re WorldCom, Inc. Securities Litigation*, No. 02-cv-3288 (S.D.N.Y.) (\$6.13 billion settlement) (Fresno County Employees' Retirement Association); *In re Enterasys Networks, Inc. Securities Litigation*, No. C-02-071-M (D.N.H.) (\$50 million settlement) (Los Angeles County Employees Retirement Association); *In re Sunrise Senior Living, Inc. Securities Litigation*, No. 07-cv-00102 (D.D.C.) (\$13.5 million) (Oklahoma Firefighters Pension & Retirement System); and *In re Buca, Inc. Securities Litigation*, No. 05-cv-1762 (D. Minn.) (\$1.6 million settlement) (West Palm Beach Police Pension Fund). Mr. Eng was a member of the litigation team prosecuting *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco County), against credit ratings agencies based on allegedly negligent misrepresentations regarding the creditworthiness of three structured investment vehicles. The firm achieved settlements totaling \$255 million from Moody's (defendants Moody's Corp. and Moody's Investors' Services, Inc.) and McGraw Hill Companies, Inc. (S&P). The settlements rank as the largest known recoveries from Moody's and S&P in a private lawsuit for civil damages relating to ratings. Mr. Eng also served as counsel for lead plaintiffs in *In re Digital Domain Media Group, Inc. Securities Litigation*, No. 12-14333-CIV (S.D. Fla.), a securities class action stemming from the rapid collapse of the digital production company Digital Domain Media Group, Inc., which filed for bankruptcy less than one year after going public, which settled for \$5.5 million.

Mr. Eng has served as a trial court law clerk in Florida state and federal courts. He is also a member of the Public Investors Arbitration Bar Association and currently serves on the Board of Editors of the PIABA Bar Journal.

Mr. Eng was recognized as a *Rising Star* in the 2010 and 2011 editions of *Florida Super Lawyers* magazine and has been awarded a rating of AV Preeminent[®] by *Martindale-Hubbell*[®].

Mr. Eng earned a J.D. from Tulane Law School in 1998, and a B.A. in Economics from Florida State University in 1994.

Mr. Eng is a member in good standing in the Commonwealth of Massachusetts and the state of Florida, as well as the U.S. District Court for the District of Massachusetts, the U.S. District Court for the Southern, Middle and Northern Districts of Florida, the U.S. District Court for the Eastern District of Wisconsin, the U.S. Court of Appeals for the Eighth and Eleventh Circuits, and the United States Supreme Court.

MARC J. GREENSPON



Marc J. Greenspon became Of Counsel to the firm in 2009 and concentrates his practice in the area of antitrust litigation.

Mr. Greenspon, formerly an associate with the firm from 2003 to 2007, worked on significant antitrust, consumer and securities class actions before starting an independent law practice counseling corporate clients. He maintains his independent law practice, which is not affiliated with the firm.

Mr. Greenspon earned an LL.M. in Securities and Financial Regulation from the Georgetown University Law Center in 2003, a J.D. from Nova Southeastern University in 2002 and a B.A. from the State University of New York at Buffalo in 1999. He co-authored *Securities Arbitration: Bankrupt, Bothered & Bewildered*, 7 Stan. J.L. Bus. & Fin. 131 (2002).

Mr. Greenspon is a member in good standing in the Commonwealth of Massachusetts and the state of Florida, as well as in the U.S. District Courts for the Southern, Middle and Northern Districts of Florida. Mr. Greenspon is a member of the American Bar Association Section of Antitrust Law and the American Bar Association Committee on Derivatives and Futures Law. In 2012, he was recognized as a *Rising Star* by *Florida Super Lawyers* magazine.

SARAH KHORASANEE MCGRATH



Of counsel in the firm's San Francisco office, Sarah Khorasane McGrath focuses her practice on antitrust litigation. Ms. McGrath joined Berman Tabacco in 2010 after working as a contract attorney for the Department of Justice, Antitrust Division. Prior to that, she was an attorney volunteer with the City and County of San Francisco Office of the Public Defender and the Eviction Defense Center.

Northern California *Super Lawyers Magazine* named Ms. McGrath a *Rising Star* in 2013-2015 and 2017-2019. She was also included in *San Francisco Magazine's Top Women Attorneys in Northern California* in 2013-2015 and 2017-2019.

Ms. McGrath was the 2020 President of the Federal Bar Association, Northern District of California Chapter (FBA) and was previously the FBA's President-Elect in 2019, Treasurer in 2018, Vice President in 2016-2017 and Co-Chair of their Young Lawyers Division for the Northern District of California from 2013-2015.

Ms. McGrath earned a B.A. in Communications from the University of California at San Diego in 2002 and a J.D. from the New England School of Law in 2008. While in law school, Ms. McGrath worked as a judicial extern to the Honorable Eric Taylor, Superior Court of California, County of Los Angeles.

Ms. McGrath is a member in good standing of the state bar of California, the U.S. District Court for the Northern and Central Districts of California and the U.S. Court of Appeals for the Ninth Circuit.

ANNE F. O'BERRY



Since joining the firm in 2000, Anne F. O'Berry has specialized in securities class action litigation, helping to achieve substantial recoveries for institutional investors in cases such as IndyMac MBS, El Paso, Lernout & Hauspie, Reliant, International Rectifier, Sykes, WorldCom, Bear Stearns (which settled for \$294.9 million), and the CalPERS Rating Agencies litigation (which settled for \$255 million).

She has also participated in litigating antitrust, consumer protection, and ERISA cases, including Canadian Motor Vehicles, Citrus Canker, AOL Privacy, Dairy America, EpiPen, LCD Flat Panel, Marine Hose, State Street Bank & Trust, Flushable Wipes, Yen-LIBOR, and the American Web Loan tribal lending litigation.

Ms. O'Berry began her legal career as a commercial litigation associate at the New York firm of Debevoise & Plimpton and thereafter worked in Florida as a staff attorney for a federally funded agency representing indigent death row inmates in post-conviction litigation, as co-director of a non-profit agency representing incarcerated battered women seeking executive clemency, as a central staff attorney at Florida's Fourth District Court of Appeal, as an adjunct professor at St. Thomas University Law School, and as an associate with a boutique firm litigating fair housing, civil rights, and disability rights cases.

Ms. O'Berry has also served on several law-related committees, including as Secretary of the Civil Rights Committee of the Association of the Bar of the City of New York, and as Vice President of the National Lawyers Guild's Southern Region. She is presently a member of the Guild's South Florida chapter and the Guild's Animal Rights Committee.

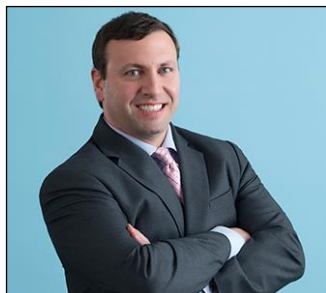
Ms. O'Berry obtained her B.A. from the University of Pennsylvania in 1983, graduating *summa cum laude* and Phi Beta Kappa, and earned her J.D. from New York University School of Law in 1986, where she was the director of the Women in Prison Project at Riker's Island, a member of the Civil Rights Litigation Clinic, and an Articles Editor on the Annual Survey of American Law, where she published an article on prisoners' rights.

While in law school, Ms. O'Berry interned for Judge Abraham D. Sofaer, U.S. District Court for the Southern District of New York, and for Judge A. Leon Higginbotham, Jr., U.S. Court of Appeals for the Third Circuit.

Following law school, Ms. O'Berry served as a law clerk to Judge Dickinson R. Debevoise, U.S. District Court for the District of New Jersey, and then as a research and teaching associate to Judge Higginbotham, with whom she co-authored: *The 'Law Only As An Enemy': The Legitimization of Racial Powerlessness Through the Colonial and Antebellum Criminal Laws of Virginia*, 70 N.C. L. Rev. 969 (1992).

Ms. O'Berry is a member in good standing of the state bars of New York and Florida, as well as the U.S. District Courts for the Southern and Eastern Districts of New York and the Southern District of Florida, the United States Court of Appeals for the Second Circuit, and the U.S. Supreme Court.

JUSTIN N. SAIF



An *of counsel* attorney in the firm's Boston office, Justin Saif focuses his practice on complex class action litigation. Mr. Saif has litigated securities, RICO, consumer, and ERISA class actions in federal court, successfully recovering hundreds of millions of dollars for aggrieved consumers, shareholders, and institutional investors.

Mr. Saif has been an integral part of the firm's largest cases for more than a decade, and his commitment to the firm's clients has driven significant firm successes. Mr. Saif represented the Massachusetts Pension Reserves Investment Management Board in *In re Fannie Mae 2008 Securities Litigation*, which alleged that Fannie Mae and two individual defendants made material misrepresentations regarding and failed to disclose (a) that an enormous volume of mortgages on its books were "subprime" and "Alt-A" as defined internally by the company and throughout the industry, and (b) that defendants had inadequate internal controls to manage the significant risks created by the company's purchases of those types of loans. Mr. Saif made crucial contributions to the case, including the drafting of the Second Amended Joint Consolidated Class Action Complaint and the opposition to defendants' motions to dismiss and preparing for and participating in mediation. That case settled for \$170 million.

Mr. Saif played a key role in drafting the consolidated class action complaint and opposition to motion to dismiss in the litigation against The Bear Stearns Companies, Inc. and its auditor, Deloitte & Touche LLP, representing the State of Michigan Retirement Systems. He also oversaw the initial document review team. That case settled for \$294.9 million. Mr. Saif was a key member of the litigation team in *In re Force Protection Securities Litigation*, representing the Laborers' Annuity and Benefit Fund of Chicago. He drafted discovery requests and responses, coordinated electronic document review and analysis, and prepared for mediation. The Force Protection matter settled for \$24 million. Mr. Saif also played a vital part in *In re Par Pharmaceutical Securities Litigation*, representing the Louisiana Municipal Employees Retirement System, including preparing for and participating in a mediation that led to an \$8.1 million settlement.

Mr. Saif is currently litigating the ongoing EpiPen ERISA action on behalf of health plan participants alleging breaches of fiduciary duties by their pharmacy benefit managers.

Prior to joining Berman Tabacco in 2008, Mr. Saif worked as an associate at Foley Hoag LLP in Boston, where he focused on complex civil litigation including securities litigation, U.S. Securities and Exchange Commission enforcement matters, and professional liability matters involving lawyers and accountants.

Mr. Saif earned an A.B. in Psychology from Harvard University in 1999, graduating *cum laude*. In 2004 he earned a J.D. from the University of Chicago. While in law school, he worked at the MacArthur Justice Center, an impact litigation firm and legal clinic focused on reforming the criminal justice system.

Mr. Saif is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts and the U.S. Court of Appeals for the First Circuit. He is a member of the Boston Bar Association.

Staff Attorneys

MACKLINE BASTIEN



Mackline Bastien joined the firm in 2015 as a staff attorney. Prior to joining Berman Tabacco, Ms. Bastien managed a solo practice in the Boston area where she represented clients in family law, business formation and housing matters. In addition, she represented an individual in a civil dispute as well as a buyer purchasing a business.

Ms. Bastien received her J.D. from Thomas M. Cooley Law School in 2005 and her L.L.M. from Boston University School of Law in 2008. While in law school, Ms. Bastien completed an externship at Hubbard Law Offices, P.C., in Lansing, Michigan where she assisted the general counsel for the Michigan Association of County Drain Commissioner regarding land-use issues and property rights matters. She received her B.S. in Business Administration from Columbia Union College in 2001.

She is a member in good standing in the Commonwealth of Massachusetts.

BRIAN J. DRAKE



A staff attorney at the firm's Boston office, Brian Drake focuses his practice on representing investors and consumers in cases involving unfair competition, consumer protection, securities, and complex litigation. Mr. Drake also represents whistleblowers who provide information and assistance to the U.S. Securities and Exchange Commission in connection with their enforcement of the federal securities laws.

Prior to Berman Tabacco, Mr. Drake was a staff attorney at a number of prominent law firms in Washington, D.C. and Boston, where he developed a broad range of expertise, primarily in the areas of anti-trust and tax litigation.

Mr. Drake received his J.D. from the George Washington University Law School and his B.S. in Mechanical Engineering from the University of California, San Diego in 1994.

Mr. Drake is a member in good standing of the state bars Virginia and the District of Columbia.

BERNA M. LEE



A staff attorney in the firm's Boston office, Berna Lee joined the firm in 2015, prior to which, Ms. Lee worked as an associate at a number of New York law firms.

Ms. Lee earned a B.A. in English Literature from Dartmouth College in 1993. She received her J.D., *cum laude*, from the Georgetown University Law Center in 1999, where she served on the *Georgetown Journal of Legal Ethics*, was a member of the Appellate Litigation Clinic and interned for the Honorable Gladys Kessler of the U.S. District Court for the District of Columbia.

Ms. Lee is a member in good standing of the state bars of Rhode Island and New York, as well as the U.S. District Courts of the Southern and Eastern Districts of New York.

ELLE K. MCKIM



A staff attorney in the firm's Boston office, Ellee K. McKim focuses her practice on representing investors and consumers in cases involving unfair competition, consumer protection, securities, and complex litigation. Prior to joining the firm, Ms. McKim served as an associate attorney at a commercial litigation firm in Boston.

Ms. McKim earned a J.D. from Northeastern University School of Law in 2009. At Northeastern University School of Law, Ms. McKim interned for Judge Joyce London Alexander of the United States District Court for the District of Massachusetts. She also served as lawyering fellow for the law school's social justice program. She earned an M.A. in Political Science from the University of Chicago in 2005 and a B.A. in Political Science from the University of Missouri in 2001.

Ms. McKim is a member in good standing in the Commonwealth of Massachusetts, the U.S. District Court for the District of Massachusetts and the U.S. Court of Appeals for the First Circuit.

JOHN REARDEN



John Rearden joined the Boston office of Berman Tabacco as a Staff Attorney in 2019. Prior to joining the firm, Mr. Rearden worked as a discovery attorney for several major law firms in the Boston area. Earlier in his career, Mr. Rearden worked as an associate attorney in Southern Florida where he specialized in commercial litigation and consumer securities fraud.

Mr. Rearden earned a B.A. in History from St. Anselm College in 1994 and his J.D. from Florida Coastal School of Law in 2002. While in law school, Mr. Rearden was named as a Dean's Scholar for academically ranking in the top 10% of all students and also received an Award for Academic Excellence in International Law. Mr. Rearden was also a member of the Florida Coastal Law Review.

Mr. Rearden is a member in good standing in the Commonwealth of Massachusetts and the State of Florida.

Project Attorneys

KAREN DIDRICKSON

Karen Didrickson joined the San Francisco office of Berman Tabacco as a project attorney in 2019. She has over a decade of experience in complex litigation and discovery matters. Ms. Didrickson has worked on a wide range of cases, including antitrust and securities litigation. Ms. Didrickson also has experience as an ERISA attorney at the global human resources consulting firms Mercer and Willis Towers Watson, and the multinational accounting firm Deloitte. In addition, she was an instructor at Golden Gate University School of Law where she taught a course on employee benefits law, with an emphasis on qualified plans.

Ms. Didrickson earned her B.A. in Political Science from Willamette University in 1982 and her J.D. (1994) and LL.M. (1995 in Taxation) from the Golden Gate University School of Law.

Ms. Didrickson is a member in good standing of the state bar of California.

LAURA M. FALARDEAU



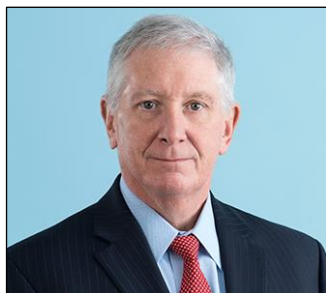
A project attorney in the firm's Boston office, Laura M. Falardeau focuses her practice on representing investors and consumers in cases involving unfair competition, consumer protection, securities, and complex litigation. Recently, Ms. Falardeau's cases have involved complex market manipulation brought under the antitrust laws and predatory lending claims under RICO.

Ms. Falardeau joined the firm in 2011 after working at several major law firms in Boston, primarily in securities litigation. Earlier in her career, Ms. Falardeau served as an associate attorney at a law firm in the Boston area focusing on

probate and bankruptcy.

Ms. Falardeau earned her B.A. in Economics and History from the University of Massachusetts, Amherst in 2000 and her J.D. from Northeastern University School of Law in 2006. At Northeastern University School of Law, Ms. Falardeau interned for Judge Peter W. Agnes, Jr. of the Massachusetts Superior Court. During law school Ms. Falardeau also represented victims of domestic violence at Greater Boston Legal Services and served as a Hearings Officer at the Boston Public Health Commission.

Ms. Falardeau is a member in good standing in the Commonwealth of Massachusetts.

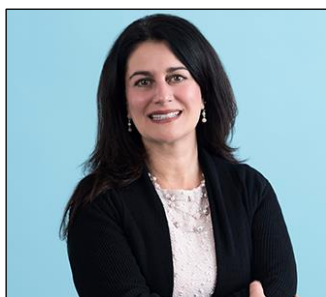
*Other Key Personnel***JAMES HOUGHTON, SENIOR INVESTIGATOR**

James A. Houghton is a Senior Investigator based in our firm's Boston office. A member of the Association of Certified Fraud Examiners, Mr. Houghton works closely with our litigation and investigative teams to conduct complex financial investigations into potential fraud schemes. Mr. Houghton's knowledge and insight has brought a unique handling to the process of uncovering evidence of fraud. Such processes often include obtaining nonpublic information through interviews with former employees at suspect companies and conducting research.

Prior to joining Berman Tabacco, Mr. Houghton was a Special Agent for the Defense Criminal Investigative Service, the Law Enforcement and Investigative arm of the Department of Defense Inspector General's Office. While there, he gained 18 years' experience directing all aspects of defense and financial fraud investigations. His cases frequently involved investigations of companies with receivable-based loans with banks. Mr. Houghton handled complex and sensitive investigations that led to both fraud and Qui Tam lawsuits, often working jointly with the U.S. Attorney General's Office and other federal agencies, including the Federal Bureau of Investigations. As a result of his investigations, Mr. Houghton has testified regularly in federal courts. Mr. Houghton's skill and expertise have led to him receiving the Department of Justice Award for Public Service on two separate occasions. Mr. Houghton further received the 2018 Investigations award from the Intelligence Community Inspectors General.

Mr. Houghton has also been a Special Agent for Naval Criminal Investigative Service and a Financial Analyst for the Federal Bureau of Investigations. He has received Top Secret and Sensitive Compartmented Information Clearance.

Mr. Houghton earned a B.S. in Business Administration and Accounting from Stonehill College. He also attended the Federal Law Enforcement Training Center for White Collar Crime and Financial Fraud Training, as well as their Criminal Investigator Training Program.

JEANNINE M. SCARSCIOTTI, SENIOR PORTFOLIO ANALYST

Jeannine M. Scarsciotti, the firm's senior portfolio analyst has more than 15 years' experience in providing portfolio monitoring, loss calculation and settlement services to the firm's institutional clients. Ms. Scarsciotti works collaboratively with a team of portfolio analysts to provide clients with comprehensive monitoring services. Her team works closely with the firm's attorneys in refining loss calculations to reflect estimated recoverable damages as opposed to market losses. The portfolio analysts, along with the New Case Investigations Team attorneys, routinely work with damage experts to develop regression analyses and analyze confounding information that will

impact an investor's ultimate recoverable damages. Ms. Scarsciotti also devotes a substantial portion of her

time offering guidance to the firm's institutional clients in understanding their eligibility in securities class action settlements and helping clients with any custodian bank matters or data reconciliation issues that may arise.

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Exhibit 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE AEGEAN MARINE
PETROLEUM NETWORK, INC.
SECURITIES LITIGATION

)
) Case No. 1:18-cv-04993 (NRB)
)
) Hon. Naomi Reice Buchwald
)
)
)
)
)
)

**DECLARATION OF MICHAEL S. ETKIN IN SUPPORT OF
LEAD COUNSEL’S MOTION FOR ATTORNEYS’ FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES**

I, Michael S. Etkin, declare:

1. I am a partner in the law firm of Lowenstein Sandler LLP (“Lowenstein”). I submit this Declaration in support of Lead Counsel’s motion for attorneys’ fees and reimbursement of litigation expenses in connection with the prosecution of the claims in the above-captioned action (the “Action”) from inception through June 30, 2022 (the “Time Period”).

2. Aegean Marine Petroleum Network, Inc. (“Aegean”) and seventy-four of its affiliates (together with Aegean, the “Debtors”) filed voluntary petitions for chapter 11 bankruptcy protection (the “Chapter 11 Cases”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) on November 6, 2018, during the pendency of this Action. Lowenstein was retained by Lead Plaintiff Utah Retirement Systems (“Lead Plaintiff”), through Lead Counsel Berman Tabacco, to serve as bankruptcy counsel and assist on bankruptcy-related matters in the Chapter 11 Cases and the Action on behalf of Lead Plaintiff and the putative class. Lowenstein has particular expertise and experience with respect to the interplay between securities class action litigation and bankruptcy.

3. Lowenstein’s primary responsibility was to represent the interests of Lead Plaintiff and the putative class in the Chapter 11 Cases as they relate to the Action and, to the

extent possible, protect them from the impact of the Chapter 11 cases. Among other actions taken in the Chapter 11 Cases, Lowenstein reviewed and monitored the docket and proceedings, prepared for and appeared at multiple hearings before the Bankruptcy Court, prepared for and participated in numerous conference calls with Lead Counsel and others, prepared multiple pleadings and objections with respect to issues and requests for relief relevant to the rights of Lead Plaintiff and the putative class and exchanged correspondence with Lead Counsel as well as major constituents in the Chapter 11 Cases on various matters related to the Action. Lowenstein also provided advice to Lead Plaintiff and Lead Counsel with respect to certain directors' and officers' ("D&O") insurance and data privacy issues (areas where Lowenstein has extensive subject-matter expertise) that arose in connection with the Chapter 11 Cases and the Action.

4. In addition to providing ongoing monitoring, guidance, preparation of pleadings and counseling, Lowenstein, under the direction of Lead Plaintiff and Lead Counsel, worked to preserve the rights and claims of Lead Plaintiff and the putative class in the following material ways:

A. The Third-Party Release

5. First, under the direction of and in consultation with Lead Plaintiff and Lead Counsel, Lowenstein prevented the Debtors from using the Chapter 11 Cases to extinguish the claims of Lead Plaintiff and the putative class against the non-Debtor defendants in this Action.

6. On January 16, 2019, the Debtors filed a proposed chapter 11 plan of reorganization (the "Original Plan").¹ The Original Plan contained an expansive third-party

¹ *In re Aegean Marine Petroleum Network Inc., et al.*, Lead Case No. 18-13374 (Bankr. S.D.N.Y. Jan. 16, 2019), ECF No. 303. Settlement Class Members, whose claims against

release (the “Third-Party Release”). Had the Original Plan been confirmed and become effective, the Third-Party Release would have released the claims of Lead Plaintiff and the putative class against most or all of the Defendants in this Action.

7. The Third-Party Release in the Original Plan provided as follows:

Third Party Release

EFFECTIVE AS OF THE EFFECTIVE DATE, AND EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THE PLAN, EACH RELEASING PARTY IS DEEMED TO HAVE RELEASED AND DISCHARGED EACH DEBTOR, REORGANIZED DEBTOR, AND RELEASED PARTY FROM ANY AND ALL CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, INCLUDING ANY DERIVATIVE CLAIMS, ASSERTED ON BEHALF OF THE DEBTORS, THAT SUCH ENTITY WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT (WHETHER INDIVIDUALLY OR COLLECTIVELY), BASED ON OR RELATING TO, OR IN ANY MANNER ARISING FROM, IN WHOLE OR IN PART: (I) THE DEBTORS, THE DEBTORS’ IN- OR OUT-OF-COURT RESTRUCTURING EFFORTS, OR INTERCOMPANY TRANSACTIONS; (II) ANY RESTRUCTURING TRANSACTION, CONTRACT, INSTRUMENT, RELEASE, OR OTHER AGREEMENT OR DOCUMENT (INCLUDING PROVIDING A LEGAL OPINION REQUESTED BY ANY ENTITY REGARDING ANY TRANSACTION, CONTRACT, INSTRUMENT, DOCUMENT, OR OTHER AGREEMENT CONTEMPLATED BY THE PLAN OR THE RELIANCE BY ANY RELEASED PARTY ON THE PLAN OR THE CONFIRMATION ORDER IN LIEU OF SUCH LEGAL OPINION) CREATED OR ENTERED INTO IN CONNECTION WITH THE DISCLOSURE STATEMENT OR THE PLAN; (III) THE CHAPTER 11 CASES, THE DISCLOSURE STATEMENT, THE PLAN, THE FILING OF THE CHAPTER 11 CASES, THE RESTRUCTURING SUPPORT AGREEMENT, THE PURSUIT OF CONFIRMATION, THE PURSUIT OF CONSUMMATION, THE ADMINISTRATION AND IMPLEMENTATION OF THE PLAN, OR THE DISTRIBUTION OF PROPERTY UNDER THE PLAN OR ANY OTHER RELATED AGREEMENT; OR (IV) UPON ANY OTHER ACT, OR OMISSION, TRANSACTION, AGREEMENT, EVENT, OR OTHER OCCURRENCE TAKING PLACE ON OR BEFORE THE EFFECTIVE DATE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING OR IN THE PLAN, OTHER THAN WITH RESPECT TO THE REORGANIZED DEBTORS AND THE NON-DEBTOR SUBSIDIARIES THEMSELVES, THE RELEASES SET FORTH ABOVE SHALL NOT RELEASE (I) ANY LITIGATION CLAIMS (SUBJECT TO THE LIMITATIONS

Aegean are statutorily subordinated pursuant to section 510(b) of the Bankruptcy Code, likely will not recoup anything through the Chapter 11 Cases.

SET FORTH IN ARTICLE IX.F HEREOF) OR (II) ANY POST-EFFECTIVE DATE OBLIGATIONS OF ANY PARTY OR ENTITY UNDER THE PLAN, ANY TRANSACTION, OR ANY DOCUMENT, INSTRUMENT, OR AGREEMENT (INCLUDING THOSE SET FORTH IN THE PLAN SUPPLEMENT) EXECUTED TO IMPLEMENT THE PLAN.

Original Plan, Art. IX.C.

8. The Original Plan defined “Released Party” (*i.e.*, the parties receiving the Third-Party Release) to include, among numerous other categories, the Debtors and their current and former affiliates, direct and indirect equity holders, and current and former directors, officers, members, employees, partners, managers, independent contractors, agents, representatives, principals, professionals, consultants, financial advisors, attorneys, accountants, investment bankers, and other professional advisors. Original Plan, Art. I.A., ¶134. The Released Parties under the Original Plan included all or substantially all of the Defendants in this Action.

9. The Original Plan next defined “Releasing Party” (*i.e.*, the parties deemed to grant the Third-Party Release) to include, among many others, all holders of claims against or interests in the Debtors. Original Plan, Art. I.A., ¶135(n). Although the Original Plan supposedly permitted holders of claims and interests to opt out of the Third-Party Release, the Debtors did not propose any mechanism for providing members of the putative class with notice of the Original Plan or affording them any means of opting out. Moreover, the Debtors offered no justification for imposing an affirmative duty on absent members of the putative class, who were not slated to receive any recovery under the Original Plan, to opt out of a gratuitous release of their claims against solvent, non-Debtor defendants, some of whom were potentially covered by insurance.

10. Working with Lead Counsel, Lowenstein filed and aggressively prosecuted an objection to Bankruptcy Court approval of the disclosure statement and vote solicitation

procedures for the Original Plan (the “Disclosure Statement Objection”).² Among other things, the Disclosure Statement Objection argued that the Original Plan was unconfirmable because the Third-Party Release was legally impermissible and fundamentally unjust, and because the proposed disclosure statement failed to disclose whether the claims of Lead Plaintiff and the putative class against Aegean would be preserved at least to the extent of available D&O insurance coverage. Disclosure Statement Objection at 11-17, 23-25.

11. On February 14, 2019, at a hearing on approval of the disclosure statement and vote solicitation procedures for the Original Plan, the Bankruptcy Court agreed with Lead Plaintiff, finding that the opt-out mechanism in the Third-Party Release was an impermissible means of manufacturing deemed consent where none actually existed. As a result, Lowenstein negotiated extensive modifications to the Original Plan to effectuate the Bankruptcy Court’s ruling and to address other concerns raised in the Disclosure Statement Objection. Those modifications were reflected in an amended plan of reorganization that ultimately was confirmed on March 29, 2019 (the “Confirmed Plan”).³

12. The Confirmed Plan contained the following carve-out provision (the “Carve-Out”), which made clear that the Third-Party Release does not release any claims of Lead Plaintiff or the putative class against the non-Debtor Defendants in this Action:

I. Limitations with Respect to Securities Claims

The Third Party Release (Article IX.C) is subject to a carve out in respect of the Securities Claims in the last sentence of such provision (the “Securities Claims Carve Out”). Notwithstanding anything to the contrary contained elsewhere in the Plan, the scope of the Securities Claims Carve Out is set forth in this Article IX.I.

² *In re Aegean Marine Petroleum Network Inc., et al.*, Lead Case No. 18-13374 (Bankr. S.D.N.Y. Feb. 12, 2019), ECF No. 356.

³ *In re Aegean Marine Petroleum Network Inc., et al.*, Lead Case No. 18-13374 (Bankr. S.D.N.Y. Mar. 29, 2019), ECF No. 503-1.

The Third Party Release shall not release any Securities Claims except as set forth in this Article IX.I.

The Securities Claims Carve Out shall not extend to, limit, or otherwise modify the scope of the Third Party Release in relation to (1) Mercuria and each of its current and former directors, officers, members, employees, partners, managers, independent contractors, agents, representatives, principals, professionals, consultants, financial advisors, attorneys, accountants, investment bankers, and other professional advisors, each solely in their capacities as such, (2) David Gallagher, (3) any other current officer or director of the Debtors that began working for the Debtors after May 1, 2018, (4) each of the Debtors' employees, partners, managers, independent contractors, agents, representatives, principals, professionals, consultants, financial advisors, attorneys, accountants, investment bankers, and other professional advisors that began working after May 1, 2018, or (5) the Professionals, excluding Professionals retained pursuant to the Order Authorizing the Retention and Compensation of Professionals Utilized in the Ordinary Course of Business [Docket No. 157]; provided, that, for the avoidance of doubt, each such entity or party referred to in subparts (1) - (5) are "Released Parties" under this Plan. With respect to any Pre-5/2 Current D&O, the Securities Claims Carve Out shall exclude from the Third Party Release only the Securities Claims, if any, against such Pre-5/2 Current D&Os for gross negligence, willful misconduct, or fraud, and the Section 20 Claims; provided, however, that each such Pre-5/2 Current D&O's liability, if any, on account of any Section 20 Claims shall be limited by and with recourse solely to available coverage under applicable D&O Liability Insurance Policies so long as such limitation does not limit the availability of such insurance; provided, further, that, for the avoidance of doubt, each Pre-5/2 Current D&O otherwise remains a "Released Party" in relation to the Third Party Release except to the extent of the foregoing carve out for Securities Claims based on gross negligence, willful misconduct, or fraud, and the Section 20 Claims.

In addition to the foregoing, no recovery in respect of a Securities Claim shall result in or create in any manner a payment obligation, or any other liability, directly or indirectly, by the Reorganized Debtors, any of their subsidiaries, or Mercuria (including each of its current and former directors, officers, members, employees, partners, managers, independent contractors, agents, representatives, principals, professionals, consultants, financial advisors, attorneys, accountants, investment bankers, and other professional advisors, each solely in their capacities as such), or David Gallagher, and none of the foregoing shall be named as a party in any claim, complaint, or Cause of Action in the Securities Litigation. For the avoidance of doubt the Securities Claims Carve Out shall not extend to, limit, or otherwise modify the scope of the Debtor Release, Third Party Release, and Exculpation in relation to such payment obligations or any other liabilities described in the foregoing sentence.

Confirmed Plan, Art. IX.I.

13. The Confirmed Plan, including the Carve-Out, became effective on April 3, 2019.⁴ By virtue of the Carve-Out, this Action was able to proceed against all non-Debtor Defendants, unaffected by the Chapter 11 Cases and, in particular, the Third-Party Release.

14. Despite the Bankruptcy Court's ruling in connection with the Disclosure Statement that led to modifications of the Original Plan, certain issues remained which Lowenstein, under the direction of and in consultation with Lead Counsel, addressed in an objection to confirmation of the then operative plan. Those issues were resolved through negotiations prior to the confirmation hearing.

B. Preservation of Access to D&O Insurance

15. Under the direction of and in consultation with Lead Plaintiff and Lead Counsel, Lowenstein also negotiated provisions in the Confirmed Plan and the order confirming the Confirmed Plan (the "Confirmation Order")⁵ that preserve Lead Plaintiff's right to seek recovery in this Action from any relevant D&O insurance policies. As a result, both the Confirmed Plan and the Confirmation Order contain language explicitly preserving Lead Plaintiff's "right to pursue any D&O Liability Insurance Policies for the satisfaction of a claim for which the proceeds of any such D&O Liability Insurance Policies may be available," and right to assert claims to the proceeds of the D&O insurance policies, individually and on behalf of the putative class.

16. The Confirmation Order provides as follows, in pertinent part:

V. Clarification Regarding Rights under D&O Liability Insurance Policy.

88. For the avoidance of doubt, nothing in the Plan, including Article V.O, is intended to or may be interpreted as enlarging or diminishing the Debtors', Reorganized Debtors', Litigation Trustee's, Lead Securities Plaintiff's

⁴ *In re Aegean Marine Petroleum Network Inc., et al.*, Lead Case No. 18-13374 (Bankr. S.D.N.Y. Apr. 3, 2019), ECF No. 514.

⁵ *In re Aegean Marine Petroleum Network Inc., et al.*, Lead Case No. 18-13374 (Bankr. S.D.N.Y. Mar. 29, 2019), ECF No. 503.

(individually or in its capacity as such), or any other Entity's right to pursue any D&O Liability Insurance Policies for the satisfaction of a claim for which the proceeds any such D&O Liability Insurance Policies may be available. The express terms and conditions of the applicable D&O Liability Insurance Policies shall control in all cases. All rights, remedies, claims, and defenses of all parties in interest with respect to any such D&O Liability Insurance Policies (or the proceeds thereof) for satisfaction of any such claims are preserved, including, without limitation, the rights and defenses of each insured party, underwriter, carrier or other Entity who is an issuer or insurer under all D&O Liability Insurance Policies or who may have a responsibility for the payment of any proceeds therefrom. Notwithstanding anything contained herein or in the Plan to the contrary, the advancement of Defense Costs by an Insurer (each as defined in the applicable D&O Liability Insurance Policies) after the Effective Date of the Plan pursuant to the terms of any applicable D&O Liability Insurance Policy will not violate any injunctions or stays in effect in the Chapter 11 Cases, including those pursuant to sections 105 or 362 of the Bankruptcy Code, contained in the Plan or this Confirmation Order, or any other order of this Court.

Confirmation Order, ¶88.

17. The Confirmed Plan provides as follows, in pertinent part:

Notwithstanding anything to the contrary in the Plan, each of the Litigation Trust and the Lead Securities Plaintiff (in such capacity) has the right to pursue any and all insurance proceeds under any and all D&O Liability Insurance Policies available to any defendant(s) in connection with the Litigation Claims or the Securities Claims, as applicable, in order to satisfy any settlement or judgment obtained by the Litigation Trust or Lead Securities Plaintiff (in such capacity) in respect of such Litigation Claims or Securities Claims, as applicable; without prejudice to the right of any insured to receive proceeds in respect of defense or similar costs; provided that nothing in the Plan or Confirmation Order shall: (a) constitute a finding or stipulation that any proceeds of any of the D&O Liability Insurance Policies (i) are property of any Estate or (ii) that the Litigation Trust (relative to the Litigation Claims) or the Lead Securities Plaintiff (in such capacity as to the Securities Claims or to the extent any substantially similar claims or Causes of Action are initiated, brought, prosecuted or otherwise asserted by the Lead Securities Plaintiff in any capacity other than as the Lead Securities Plaintiff) has any priority to such insurance proceeds; (b) modify or supersede any provision (including any priority of payments provision) of any of the D&O Liability Insurance Policies; or (c) otherwise preclude any party entitled to coverage under the D&O Liability Insurance Policies from seeking and obtaining such coverage thereunder.

Confirmed Plan, Art. IV.N.1.

18. These provisions, negotiated by Lowenstein and reflected in the Confirmed Plan and Confirmation Order, preserved the status quo with respect to D&O insurance coverage for claims asserted in this Action against Aegean and any of its current or former directors and officers, notwithstanding any impact the Chapter 11 Cases or the Confirmed Plan otherwise may have had.

C. Other Concessions in the Confirmed Plan

19. Under the direction of and in consultation with Lead Plaintiff and Lead Counsel, Lowenstein negotiated additional concessions reflected in the Confirmation Order and the Confirmed Plan. Those concessions include:

- a. A paragraph in the Confirmation Order clarifying that nothing in the Plan or the Confirmation Order alters this Court's jurisdiction over this Action with respect to any claims against the non-Debtor defendants herein (Confirmation Order, ¶ 89); and
- b. Language in the Confirmed Plan (i) requiring the Debtors and the reorganized Debtors to comply with all discovery and document preservation rules applicable to this Action and to preserve all evidence relevant or potentially relevant to this Action until the conclusion hereof and (ii) clarifying that nothing in the Confirmed Plan impacts the rights of Lead Plaintiff to seek discovery from the reorganized Debtors, the trustee of the litigation trust created pursuant to the Confirmed Plan, or any other entity (Confirmed Plan, Art. IV.R).

20. Since the entry of the Confirmation Order and the effective date of the Confirmed Plan, Lowenstein continued to assist Lead Counsel with respect to a variety of post-confirmation issues, including D&O insurance coverage; the status of competing claims asserted by the

Litigation Trustee on behalf of Aegean's bankruptcy estate; status reports to this Court; and relevant post-effective date motions in the Chapter 11 cases relating to discovery and securing relevant documents pursuant to the express provisions negotiated in connection with the Confirmed Plan.

21. **Exhibit A** attached hereto includes a detailed summary indicating the amount of time spent by each Lowenstein attorney and professional support staff employee who devoted time to the Action from the inception of Lowenstein's engagement through and including June 30, 2022, their billing rate, and the total calculation for those individuals based on their current hourly rates. For personnel who are no longer employed by Lowenstein, the calculation is based upon the billing rates for such personnel in their final year of employment with Lowenstein. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by Lowenstein. The hourly rates for attorneys and professional support staff at Lowenstein have also been accepted by courts in other complex class actions. *See, e.g., In Re Luckin Coffee Inc. Securities Litigation*, No. 1:20-cv-01293-JPC-JLC (S.D.N.Y. Jul. 22, 2022); *Guevoura Fund Ltd. v. Sillerman*, No. 1:15-cv-07192-CM (S.D.N.Y. Dec. 18, 2019); *Khoja et al v. Orexigen Therapeutics, Inc.*, No. 3:15-cv-00540 (S.D. Cal. Nov. 30, 2021); *Okla. Law Enf't Ret. Sys. v. Adeptus Health Inc.*, No. 4:17-cv-00449-ALM (E.D. Tex. May 20, 2020); *Shenk v. Mallinckrodt PLC*, No. 2017-0145 (D.D.C. Aug. 2, 2022).

22. Lowenstein has also incurred a total of \$1,965.11 in unreimbursed expenses in connection with the Chapter 11 Cases and the prosecution of the Action, which are also detailed in **Exhibit A**. These expenses are reflected on the books and records of Lowenstein. These books and records are prepared from expense vouchers, check records and other source materials and are

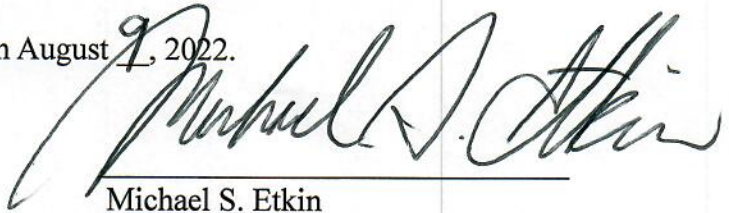
an accurate record of the expenses incurred. These expenses have been invoiced to and paid by Lead Counsel and are reflected in its expense report filed concurrently herewith.

23. As the partner responsible for supervising Lowenstein's work on this case, I reviewed these time and expense records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the litigation, including the Bankruptcy Case. In addition, all time expended in preparing this application for fees and expenses has been excluded.

24. With respect to the standing of Lowenstein, attached hereto as **Exhibit B** is a brief biography of Lowenstein as well as biographies of the principal Lowenstein attorneys who worked on the Action.

I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Executed at Roseland, New Jersey, on August 9, 2022.



Michael S. Etkin

EXHIBIT A

EXHIBIT A

**LOWENSTEIN SANDLER LLP
IN RE: AEGEAN MARINE PETROLEUM NETWORK INC.
SECURITIES LITIGATION**

Case No. 1:18-cv-04993 (NRB)

STATEMENT OF TOTAL TIME

November 1, 2018 to June 30, 2022

Name	Legend	Time (hours)	Billing Rate	Total
Michael S. Etkin	P	180.90	\$1,290.00/hr.	\$233,361.00
Andrew D. Behlmann	P	290.60	\$950.00/hr.	\$276,070.00
Mary J. Hildebrand	P	11.80	\$1,025.00/hr.	\$12,095.00
Eric Jesse	P	10.40	\$860.00/hr.	\$8,944.00
Judith G. Rubin	C	3.00	\$820.00/hr.	\$2,460.00
Oluwaseyi O. Amarin	A	3.20	\$565.00/hr.	\$1,808.00
Gabriel L. Olivera	A	14.30	\$665.00/hr.	\$9,509.50
Elizabeth B. Lawler	PL	7.90	\$300.00/hr.	\$2,370.00
Diane Claussen	PL	1.40	\$320.00/hr.	\$448.00
TOTAL				<u>\$547,065.50</u>

Legend

P = PARTNER
C = COUNSEL
OC = OF COUNSEL
A = ASSOCIATE
PL = PARALEGAL

**LOWENSTEIN SANDLER LLP
IN RE: AEGEAN MARINE PETROLEUM NETWORK INC.
SECURITIES LITIGATION**

Case No. 1:18-cv-04993 (NRB)

DISBURSEMENTS INCURRED

November 1, 2018 to June 30, 2022

EXPENSE	AMOUNT
Messenger and Delivery Charges	\$72.23
Bulk rate/special postage	\$231.56
Computerized legal research	\$826.71
Telecommunications	\$31.99
Printing and Duplicating Services – Internal	\$130.32
Meals	\$287.07
Transcript Charges	\$204.00
Travel	\$181.23
TOTAL BILLED DISBURSEMENTS	<u>\$1,965.11</u>

TOTAL BILLED AND UNREIMBURSED DISBURSEMENTS - \$1,965.11

EXHIBIT B



EXHIBIT B

In re Aegean Marine Petroleum Network, Inc. Securities Litigation
Case No. 1:18-cv-04993 (NRB)

LOWENSTEIN SANDLER LLP RÉSUMÉ

BANKRUPTCY & RESTRUCTURING

Lowenstein's bankruptcy attorneys are in demand by business leaders, credit managers, financial advisors, institutional investors and restructuring professionals seeking a resourceful, aggressive, well-connected law firm. We understand how to reach a negotiated resolution yet have a strong track record at trial. We represent debtors, creditors' committees, individual and institutional stakeholders, and trustees in Chapter 11 proceedings throughout the United States.

A reorganization may be the most practical and promising strategy for a troubled company. We advise on prepackaged and prenegotiated plans, which implement quick restructurings that might otherwise take years to complete. We also counsel debtors, creditors, and financial institutions in nonjudicial debt restructurings or workouts involving public and privately held companies.

In some instances, a business is not in distress but wishes to retire debt at a discount, restructure operations, or recapitalize. As a bankruptcy law firm, our attorneys work with companies seeking creative techniques to achieve specific business goals to deal with these issues.

A company's fiscal difficulty affects various other parties, such as those who have provided loans, supplied goods and services, or invested capital. We represent official and unofficial creditors' committees and equity committees in diverse Chapter 11 and other insolvency matters. We collaborate with commercial and investment banks, savings institutions, mutual funds, pension funds, and other financial firms in their management of troubled credit, or claims against companies in distress. Our attorneys also advise clients who are interested in buying assets from Chapter 11 debtors. We structure and secure bankruptcy court approval of debtor-in-possession financing, represent lenders in exploring and establishing these and other financing opportunities and represent asset purchasers.

When appropriate, we consult with the firm's corporate and tax groups to structure transactions that minimize future complications and liability, and to avoid the domino effect that one bad deal can have on a company's overall well-being. We also advise on the significant bankruptcy aspects of various transactions, including commercial finance transactions, as well as on mergers, acquisitions, and divestitures of solvent, insolvent, and other highly leveraged companies. Our bankruptcy attorneys are involved in large and complex commercial, industrial, and residential real estate insolvencies, and they assist companies in emerging from bankruptcy with controlled environmental liabilities.

We also prosecute and defend all types of litigation related to bankruptcy proceedings. We are noted for representing the interests of shareholders, investors, and consumers in class action and other litigation against corporate defendants that are in bankruptcy.

Whether defrauded institutional investors, individual investors, state, local, and union employee pension and benefit funds, investment managers, or consumers in some of the largest and most significant Chapter 11 cases, we understand the nuances and pitfalls facing such claimants in a bankruptcy context. Such representation helps protect a class of creditors that generally receives little or no recovery in Chapter 11 reorganizations or liquidations throughout the country including the most active jurisdictions.

**Michael S. Etkin**

Partner, Bankruptcy & Restructuring Department

E-mail: metkin@lowenstein.com**T:** 973.597.2312

A senior bankruptcy practitioner and seasoned commercial litigator, Mickey brings significant experience to his practice, which focuses on complex business reorganizations, investor litigation in a bankruptcy context, and high-stakes Chapter 11 issues. Mickey is consistently recognized by *Chambers USA* as "a strong lawyer," "brilliant," "fantastic," "very plugged in," and "instrumental in providing tactical advice," noting his skill in "anticipating all the key issues that are likely to arise." Clients have commended his "technical knowledge, attention to detail, and honest and straightforward legal advice."

A key member of the firm's successful bankruptcy and complex business litigation practices, Mickey has represented debtors, trustees, creditors, and investors in a variety of noteworthy bankruptcies and bankruptcy-related litigation. He currently represents a number of institutional shareholder and investor interests in several large and complex Chapter 11 and Chapter 15 proceedings, including cross-border insolvencies, such as Pacific Gas & Electric, Ascena Retail Group, Mallinckrodt, Luckin Coffee, SandRidge Energy, American Addiction Centers, Performance Sports Group, Aegean Marine Petroleum, Windstream, Adeptus Health, and McDermott International, among others. On the consumer front, he currently represents consumer interests in the Cambridge Analytica, Think Finance and 21st Century Oncology bankruptcy proceedings. He also represents debtors and purchasers in acquisitions of assets of Chapter 11 and Chapter 7 bankruptcy estates.

In addition, Mickey represents major energy companies in connection with bankruptcy proceedings involving their customers and counterparties. He has been invited to speak before financial institutions, bar association groups, and credit associations regarding the rights of counterparties to derivatives and other energy-related contracts in a bankruptcy context, including cutting-edge issues emerging from the Lehman Brothers Chapter 11 and SIPC proceedings. Mickey also is routinely asked to speak at programs discussing the rights of securities fraud claimants and class action plaintiffs in a Chapter 11 context and on the interplay between bankruptcy law and product liability litigation.

Education

- St. John's University School of Law (J.D. 1978), with honors
- Boston University (B.S. 1975), cum laude

Affiliations

- International Energy Credit Association

Admissions

- New York
- New Jersey



Andrew Behlmann

Partner, Bankruptcy & Restructuring Department

E-mail: abehlmann@lowenstein.com

T: 973.597.2332

Andrew leverages his background in corporate finance and management to approach restructuring problems, both in and out of court, from a practical, results-oriented perspective. With a focus on building consensus among multiple parties that have competing priorities, Andrew is equally at home both in and out of the courtroom, and he has a track record of turning financial distress into positive business outcomes. Clients value his counsel in complex Chapter 11 cases, where he represents debtors, creditors' committees, purchasers, and investors.

Andrew writes and speaks frequently about bankruptcy matters and financial issues. Before becoming a lawyer, he worked in senior financial management at a midsize, privately held company.

Education

- Seton Hall University School of Law (J.D. 2009), magna cum laude; Order of the Coif
- University of Missouri-Saint Louis (B.S. 2005), Business Administration-Finance and Accounting; Beta Gamma Sigma

Admissions

- New Jersey

Exhibit 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE AEGEAN MARINE
PETROLEUM NETWORK, INC.
SECURITIES LITIGATION

)
) Case No. 1:18-cv-04993 (NRB)
)
) Hon. Naomi Reice Buchwald
)
)
)
)
)
)

DECLARATION OF KEVIN CATLETT ON BEHALF OF UTAH RETIREMENT SYSTEMS IN SUPPORT OF (A) LEAD PLAINTIFF’S MOTION FOR: (I) FINAL APPROVAL OF THE PROPOSED PARTIAL CLASS ACTION SETTLEMENTS WITH PRICEWATERHOUSECOOPERS AUDITING COMPANY S.A. AND DELOITTE CERTIFIED PUBLIC ACCOUNTANTS, S.A.; (II) FINAL CERTIFICATION OF THE SETTLEMENT CLASS; AND (III) FINAL APPROVAL OF THE PROPOSED PLANS OF ALLOCATION; AND (B) LEAD COUNSEL’S MOTION FOR ATTORNEYS’ FEES AND REIMBURSEMENT OF LITIGATION EXPENSES AND THE ESTABLISHMENT OF A LITIGATION EXPENSE FUND

I, Kevin Catlett, on behalf of Lead Plaintiff Utah Retirement Systems (“URS” or “Lead Plaintiff”), hereby certify that the following is true and correct to the best of my knowledge, information and belief:

1. I am Chief Investment Counsel to URS. URS manages more than \$40 billion for over 240,000 beneficiaries. I respectfully submit this Declaration on behalf of URS in support of:

- Lead Plaintiff’s Motion For: (I) Final Approval of The Proposed Partial Class Action Settlements with PricewaterhouseCoopers Auditing Company S.A. and Deloitte Certified Public Accountants, S.A.; (II) Final Certification of The Settlement Class; and (III) Final Approval of The Proposed Plans of Allocation; and
- Lead Counsel’s Motion For Attorneys’ Fees and Reimbursement of Litigation Expenses and the Establishment of a Litigation Expense Fund.

2. Unless otherwise specifically noted, I have personal knowledge about the information in this Declaration and, if called as a witness, could and would competently testify thereto.

3. As set forth in the Certification attached to Lead Plaintiff's Consolidated Class Action Complaint ("Complaint") (ECF No. 81-1), URS purchased Aegean Securities¹ during the Class Period. As a result, I believe that URS has suffered damages.

Worked Performed by URS on Behalf of the Settlement Class

4. On October 30, 2018, the Court appointed URS as Lead Plaintiff in this action and appointed its counsel, Berman Tabacco, as Lead Counsel for the class in the action. ECF No. 69. URS is a large, sophisticated institutional investor that committed itself to vigorously prosecuting this litigation, through trial if necessary. Before seeking appointment as Lead Plaintiff in the case, URS carefully evaluated whether to serve as Lead Plaintiff and understood its fiduciary duties to serve the interests of the class by participating in the management and prosecution of this case.

5. Since its appointment as Lead Plaintiff, URS has diligently pursued the effective prosecution of this Action and has kept itself informed of the developments in the Action. Among other things, URS has authorized the filing of the motion seeking to be appointed Lead Plaintiff; reviewed the Complaint and various other pleadings, motions, discovery requests and responses; attended the motion to dismiss hearing by phone; and reviewed the Court's related orders and opinions. Lead Plaintiff has also participated in numerous strategic discussions with Lead Counsel and has communicated routinely with Lead Counsel by phone and email concerning case status, strategy, Court orders, pre-trial discovery and the collection of potentially relevant hard copy and electronic documents and communications from URS's files. URS searched for and produced 13,800 pages of documents to date. In addition, I communicated regularly with Lead Counsel regarding all settlement discussions and negotiations leading up to and following the Partial Settlements. All of the foregoing activities were done in an effort to maximize the outcome for the Settlement Class.

¹ All capitalized terms not otherwise defined herein have the same meaning as in the Notice of (I) Pendency of Class Action and Proposed Partial Settlements; and (II) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys' Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund (the "Omnibus Notice") (ECF No. 359-1).

6. I understand that the Court may make an award of reasonable costs and expenses directly relating to the representation of the class, pursuant to the PSLRA, 15 U.S.C 78-4(a)(4). Accordingly, URS is requesting the amount of \$10,000 in connection with our efforts in the action, which are described in the preceding paragraph. This request is based on the conservative calculation of hours devoted to this Action. This includes time spent by (i) the Executive Director, Daniel D. Anderson; (ii) members of the Law Department, including General Counsel Dee Larson and me; (iii) members of our investment department; and (iv) members of our Information Technology (“IT”) Department. I and other staff members devoted in excess of 100 hours to the litigation activities described above, at a blended hourly rate of \$100.00 per hour. As the primary counsel at URS working on this matter, I have expended the most hours on this Action and have not included all my time in this calculation of number of hours spent. The hours spent on this case were time that we would have otherwise devoted to other professional activities.

URS Endorses Approval of the Partial Settlements, the Requested Attorneys’ Fees and Expenses, and the Establishment of a Litigation Expense Fund

7. Based on its involvement throughout the prosecution of the Action, URS believes that the proposed Partial Settlements are fair, reasonable and adequate and in the best interest of the Settlement Class. URS believes that the proposed Partial Settlements represent a very favorable recovery, particularly in light of the substantial risks of continuing to litigate the action against the Settling Defendants who are Greek-based outside auditors. Accordingly, URS has authorized Lead Counsel to settle this Action with the Settling Defendants and it endorses approval of the Partial Settlements by the Court.

8. URS understands that Lead Counsel seeks an attorneys’ fee award of 25% of the Partial Settlement Funds, plus interest, for its own time and for time expended by Lowenstein Sandler LLP, whose retention I authorized. I understand that Lead Counsel also seeks reimbursement of litigation expenses of \$350,318.76. URS believes that Lead Counsel’s request for an award of attorney’s fees in the amount of 25% is fair and reasonable. This request is

consistent with the fee agreement between Lead Counsel and URS, which was entered into at the outset of the litigation, and which was negotiated to provide for different fees depending on the settlement amount. Further, URS believes that the expenses incurred by counsel are fair, reasonable and necessary to the successful prosecution and resolution of this Action, particularly considering the work performed by Lead Counsel, and the substantial recovery obtained, particularly given the complexity and the risks here.

9. In addition, URS recognizes that Lead Counsel continues to pursue claims against the Non-Settling Defendants and that the establishment of a Litigation Expense Fund in the amount of \$500,000 would substantially assist with the costs associated with these efforts.

10. Accordingly, URS further endorses approval of Lead Counsel's fee request, request for reimbursement of Litigation Expenses and the request for the establishment of a Litigation Expense Fund by the Court.

I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Executed on August 9, 2022.



Kevin Catlett

Exhibit 6

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE AEGEAN MARINE PETROLEUM
NETWORK, INC. SECURITIES
LITIGATION

Case No. 1:18-cv-04993 (NRB)

**DECLARATION OF JACK EWASHKO REGARDING MAILING OF NOTICE
AND PUBLICATION OF SUMMARY NOTICE**

I, Jack Ewashko, declare as follows:

1. I am a Client Services Director of A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”), whose Corporate Office is located in Milwaukee, Wisconsin. Pursuant to the Orders entered by the Court on June 3, 2022 (the “Preliminary Approval Orders”), A.B. Data was authorized to act as the Claims Administrator in connection with the Partial Settlements of the above-captioned action (the “Action”).¹ I am over 21 years of age and am not a party to the Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

MAILING OF THE NOTICE AND PROOF OF CLAIM

2. As set forth in the Preliminary Approval Orders, the Settlement Class Members are those who purchased or otherwise acquired Aegean Securities (or sold Aegean put options) between February 27, 2014 through November 5, 2018, inclusive (the “Settlement Class Period”), and were allegedly damaged thereby. Aegean Securities consist of: (a) the common stock of Aegean (Ticker: ANWWQ; CINS: Y0017S102) (pre-bankruptcy Aegean traded under the ticker “ANW”); (b) Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued

¹ All capitalized terms not otherwise defined herein have the same meaning as in the Notice of (I) Pendency of Class Action and Proposed Partial Settlements; and (II) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys’ Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund (ECF No. 359-1).

10/23/2013 (the “4.00% Notes”) (CUSIP: Y0020QAA9; ISIN: USY0020QAA95); (c) Aegean 4.25% Convertible Unsecured Senior Notes due 12/15/2021 issued 12/19/2016 (the “4.25% Notes”) (CUSIP: 00773VAA4 (CUSIP changed to 00773VAB2 on 2/12/2018); ISIN: US00773VAB27); (d) Aegean call options; and (e) Aegean put options.

3. Pursuant to the Preliminary Approval Orders, A.B. Data mailed the Notice of (I) Pendency of Class Action and Proposed Partial Settlements; and (II) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys’ Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund (the “Omnibus Notice”), along with the Proof of Claim and Release (“Claim Form”) (collectively, the “Notice Packet”) to potential Settlement Class Members. A copy of the Notice Packet is attached hereto as **Exhibit A**.²

4. As in most class actions of this nature, the large majority of potential Settlement Class Members are expected to be beneficial owners whose securities are held in “street name” – *i.e.*, the securities are purchased by brokerage firms, banks, institutions and other third-party nominees in the name of the respective nominees, on behalf of the beneficial owners. A.B. Data maintains a proprietary database with names and addresses of the largest and most common banks, brokers, and other nominees (the “Record Holder Mailing Database”). At the time of the initial mailing, the Record Holder Mailing Database contained 4,099 mailing records.

5. On June 14, 2022, A.B. Data received two data files containing 47 Depository Trust Participants for CUSIPs 00773VAB2 (Aegean 4.25% Convertible Unsecured Senior Notes due 12/15/2021 issued 12/19/2016) and Y0020QAA9 (Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued 10/23/2013) (“Depository Participants”).

² The initial Notice Packet referenced a Bloomberg Identifier in lieu of the CUSIP (which Bloomberg had misidentified as a CUSIP) for the Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued 10/23/2013, ISIN: USY0020QAA95. Accordingly, as discussed in ¶9, the Notice Package was updated on July 21, 2022 to reflect the CUSIP update for the Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued 10/23/2013, ISIN USY0020QAA95.

6. On June 24, 2022, A.B. Data caused the Notice Packet to be sent by first-class mail to the 4,099 mailing records contained in the Record Holder Mailing Database and the 47 records contained in the Depository Participants.

7. The Omnibus Notice directed those brokers and nominees who held any Aegean Securities purchased during the Settlement Class Period as nominee for a beneficial owner that they must, within seven (7) days after they receive the Notice Packet, either (a) provide to A.B. Data a list of the names and addresses of such Persons for which they purchased Aegean Securities during the Settlement Class Period; or (b) send a copy of the Omnibus Notice and the Claim Form by first-class mail to all such Persons. *See Exhibit A*, at 14.

8. In conjunction with mailing of the Notice Packet, on June 24, 2022, A.B. Data also caused the securities clearing agency, the Depository Trust Company (“DTC”), to post the Notice Packet on the DTC’s Electronic Legal Notice System (“LENS”). The LENS system is a comprehensive library of notices published by third-party, public or private agents and agencies, reporting information about DTC-eligible securities (including the Aegean Securities), such as notices to security holders, bankruptcies, and notices regarding class action litigation. The LENS system provides notice directly to the Proxy/Corporate Actions/Class Action department of DTC Participant financial institutions. The LENS system may be accessed by any DTC Participant including all the DTC Participants with a position in Aegean Securities.

9. On July 21, 2022, A.B. at the direction of Lead Counsel, Data prepared a notice letter to notify Settlement Class Members of an updated CUSIP for the Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued 10/23/2013, ISIN USY0020QAA95 (the “Notice Letter”). A copy of the Notice Letter is attached hereto as **Exhibit B**.

10. On July 21, 2022, A.B. Data also sent an additional update to DTC for posting on its LENS to reflect the updated CUSIP.

11. On July 21, 2022, A.B. Data received a transfer agent file from Lead Counsel, containing names and addresses of Aegean common stock record holders. A.B. Data caused the Notice Packet, which included the updated CUSIP, to be sent by First-Class Mail to an additional

257 potential Settlement Class members who appeared on that list, but who were not among the previously notice parties.

12. All Notice Packages issued after July 21, 2022 included the updated CUSIP for the Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued 10/23/2013 and, on July 28, 2022, A.B. Data mailed the Notice Letter to all 4,146 mailing records completed on the initial mailing date of June 24, 2022.

13. As of August 8, 2022, A.B. Data had received an additional 11,690 names and addresses of potential Settlement Class Members from individuals or brokerage firms and other nominee holders. A.B. Data has also received requests from brokers and other nominee holders for 25,786 Omnibus Notices to be forwarded by the nominees to their customers. All such requests have been, and will continue to be, complied with and addressed in a timely manner.

14. As of August 8, 2022, a total of 41,879 Notice Packets have been mailed to potential Settlement Class Members and their nominees. In addition, A.B. Data has re-mailed 530 Omnibus Notices to persons whose original mailings were returned by the U.S. Postal Service (“USPS”) and for whom updated addresses were provided to A.B. Data by the USPS.

PUBLICATION OF THE SUMMARY NOTICE

15. Pursuant to the Preliminary Approval Orders, A.B. Data caused the Summary Notice to be published in *Investor’s Business Daily* and released via *PR Newswire* on June 27, 2022. Copies of proof of publication of the Summary Notice in *Investor’s Business Daily* and over *PR Newswire* are attached hereto as **Exhibits C and D**, respectively.

TELEPHONE HELP LINE

16. On June 24, 2022, A.B. Data established and continues to maintain a case-specific, toll-free telephone helpline, 1-877-888-9760, with an interactive voice response system and live operators, to accommodate potential Settlement Class Members with questions about the Action and the Partial Settlements. The automated attendant answers the calls and presents callers with a series of choices to respond to basic questions. Callers requiring further help have had the option to be transferred to a live operator during business hours.

SETTLEMENT WEBSITE

17. On June 24, 2022, A.B. Data established the settlement website for this Action, www.AegeanSecuritiesLitigation.com. The settlement website includes information regarding the Action and the proposed Partial Settlements, including the objection deadline and the date and time of the Court's Final Hearing. In addition, copies of the Court-approved Omnibus Notice, Claim Form, Complaint, preliminary approval motion papers, the Preliminary Approval Orders, PwC Greece Stipulation and the March 24, 2022 amendment thereto, Deloitte Greece Stipulation and other court filings are posted on the settlement website and are available for downloading. The settlement website was operational beginning on June 24, 2022, and is accessible 24 hours a day, 7 days a week. A.B. Data added the updated CUSIP for the 4.00% Notes to its website on July 21, 2022.

REPORT ON EXCLUSIONS

18. Pursuant to ¶16 of the Preliminary Approval Orders and page 9 of the Omnibus Notice, those Settlement Class Members requesting exclusion were to provide a signed letter requesting exclusion are also directed to provide the following information: (a) the name, address and telephone number of the Person seeking exclusion; (b) the identity and original face value of any Aegean Securities purchased (or otherwise acquired) during the Settlement Class Period, including the dates of each purchase or acquisition, the number of shares purchased or otherwise acquired and the prices or other consideration paid for such purchases or acquisitions; (c) the identity and original face value of any Aegean Securities sold or otherwise disposed of during the Settlement Class Period, including the dates of each sale or other disposition, the number of Aegean Securities sold or otherwise disposed of, and the prices or other consideration received for such sales or dispositions; (d) the date of each purchase or sale transaction; and (e) a statement that the Person or entity wishes to be excluded from the Settlement Class in the *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 1:18-cv-04993 (NRB), which must be signed by such Person. All requests for exclusion must be received no later than August 23, 2022.

19. As of the date of this Declaration, A.B. Data has not received any requests for exclusion.

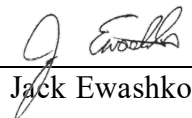
REPORT ON OBJECTIONS

20. Pursuant to ¶18 of the Preliminary Approval Orders and page 11 of the Omnibus Notice, those members of the Settlement Class who wish to object to either both of the Partial Settlements or any part of them, the PwC Greece Plan of Allocation, the Deloitte Greece Plan of Allocation, Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses and/or Lead Counsel's application for the establishment of a Litigation Expense Fund were to file such objection with the Court and serve on Lead Counsel and Defendants' counsel no later than August 23, 2022.

21. As of the date of this Declaration, A.B. Data has not received any objections to the Settlement and knows of no other objections sent to Lead Counsel and/or counsel for Defendants.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 8 day of August 2022.



Jack Ewashko

EXHIBIT A

United States District Court For The Southern District of New York

*In re Aegean Marine Petroleum Network, Inc.
Securities Litigation*

Case No. 1:18-CV-04993 (NRB)
Hon. Naomi Reice Buchwald

Notice of (I) Pendency of Class Action and Proposed Partial Settlements; and (II) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys' Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund

If You Purchased Aegean Marine Petroleum Network, Inc. Securities During The Period Beginning February 27, 2014 Through November 5, 2018, Your Rights May Be Impacted And You May Be Entitled To Payment From Two Class Action Settlements Totaling \$29.8 Million.

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

Notice of Pendency of Class Action: Please be advised that your rights may be affected by the above-captioned securities class action lawsuit (the "Action"), pending in the United States District Court for the Southern District of New York (the "Court"), if you purchased or otherwise acquired Aegean Marine Petroleum Network, Inc. ("Aegean" or the "Company") securities between February 27, 2014 through November 5, 2018, inclusive (the "Settlement Class Period"), and were allegedly damaged thereby.

Notice of Partial Settlements: Please also be advised that Court-appointed Lead Plaintiff, Utah Retirement Systems ("URS" or "Lead Plaintiff"), on behalf of itself and the Settlement Class (defined in Question 6 below), has reached two proposed partial settlements (the "Partial Settlements") of the Action, one with PricewaterhouseCoopers Auditing Company S.A. ("PwC Greece," the "PwC Greece Settlement") and one with Deloitte Certified Public Accountants, S.A. ("Deloitte Greece," the "Deloitte Greece Settlement") (together, the "Settling Defendants"), for a total of \$29.8 million. These Partial Settlements are subject to Court approval.

Description of the Securities Subject to The Partial Settlements: The securities subject to the Partial Settlements consist of: (a) the common stock of Aegean (Ticker: ANWWQ; CINS: Y0017S102) (pre-bankruptcy Aegean traded under the ticker "ANW"); (b) Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued 10/23/2013 (the "4.00% Notes") (CUSIP: Y0020QAA9; ISIN: USY0020QAA95); (c) Aegean 4.25% Convertible Unsecured Senior Notes due 12/15/2021 issued 12/19/2016 (the "4.25% Notes") (CUSIP: 00773VAA4 (CUSIP changed to 00773VAB2 on 2/12/2018); ISIN: US00773VAB27); (d) Aegean call options; and (e) Aegean put options (collectively referred to as the "Aegean Securities").

Estimate of Average Amount of Recovery: Based on its damages consultant's estimate of the number of Aegean common stock shares purchased or otherwise acquired during the Settlement Class Period, and assuming that all Settlement Class Members elect to participate in the Partial Settlements, Lead Plaintiff estimates that the average recovery (before the deduction of any Court-approved fees, expenses and costs described herein) is approximately \$0.3823 per affected common share. Lead Plaintiff, on behalf of itself and the Settlement Class, and the Settling Defendants (together, the "Settling Parties") do not agree on the amount of recoverable damages or on the average amount of damages per share or note that would be recoverable if Lead Plaintiff were to prevail on each of its claims. Among other things, the Settling Defendants deny that they violated the federal securities laws or that any damages were incurred by any Settlement Class Member as a result of their alleged conduct.

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of a payment from the Partial Settlements. Your legal rights may be affected even if you do nothing.

Your Legal Rights And Options With Respect To The Partial Settlements	
Submit a Claim Form Received or Postmarked (If Mailed), or Online, no later than October 22, 2022	This is the only way to get a payment. <i>See</i> Questions 10 and 12.
Ask To Be Excluded by Exclusion Received by August 23, 2022.	You will receive no payment from these Partial Settlements. This is the only option that allows you to ever be part of any other lawsuit against the Settling Defendants or the other relevant Settling Defendant's Released Parties (as defined in Question 11 below) concerning the claims that were, or could have been, asserted in this Action. <i>See</i> Question 13.
Object by Submitting Written Objections Received by August 23, 2022.	If you wish to object to the Settlements, or anything else referenced in this Notice, you must file a written objection. <i>See</i> Questions 16 and 17.
Participate in a Final Approval Hearing (which may be held in person, by video or as otherwise ordered by the Court)	You may also request to be heard at the Final Approval Hearing, which may be held in person or virtually. <i>See</i> Questions 18-20.
Do Nothing	You will not be eligible to receive any payment from the PwC Greece Settlement Fund (defined below) or the Deloitte Greece Settlement Fund (defined below). You will, however, remain a member of the Settlement Class, which means you give up your right to sue about the claims that are resolved by the Partial Settlements and you will be bound by any judgments or orders entered by the Court in the Action against these Settling Defendants. <i>See</i> Question 21.

WHAT THIS NOTICE CONTAINS

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SPECIAL NOTICE TO NOMINEES

24. Special Notice to Banks, Trustees, Brokerage Firms, or Other Nominees.

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BASIC INFORMATION**1. Why did I get this Notice?**

The Court has authorized this Notice because, as a potential Settlement Class Member, you have a right to know about your options before the Court rules on the proposed Partial Settlements in this Action. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim against the Settling Defendants in the Action, and the Court still has to decide whether to approve the Partial Settlements.

Judge Naomi Reice Buchwald of the United States District Court for the Southern District of New York is overseeing this Action, which captioned *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 1:18-cv-04993 (NRB).

2. What is this case about? What has happened so far?

Aegean was an international marine fuel logistics company founded in 1995 by Defendant Dimitris Melissanidis (“Melissanidis”). The Company held its initial public offering in December 2006 and, until its bankruptcy filing in the fall of 2018, its common stock traded on the New York Stock Exchange.

On November 2, 2018, following an internal investigation by outside counsel and retained forensic accountants, the Company announced that a newly-formed Audit Committee had determined that: (a) the Company’s financial results were manipulated by improperly booking approximately \$200 million in accounts receivables from bogus transactions with four shell companies controlled by former employees or affiliates of the Company; (b) approximately \$300 million in cash and assets had been misappropriated by former affiliates, including through a 2010 contract with OilTank Engineering & Consulting Ltd.; (c) Aegean’s management perpetrated and concealed the alleged financial fraud through various means including the falsification and forging of records such as bank statements, audit confirmations, contracts, invoices and third party certifications; (d) the revenues and earnings of the Company were substantially overstated in the years 2015, 2016 and 2017 and that both year-end and interim financials for these periods should no longer be relied upon and would need to be restated; (e) there were material weaknesses in the Company’s internal controls over financial reporting (“ICFR”) as of December 31, 2015, 2016 and 2017 and, as such, management’s annual report on ICFR as of December 31, 2015, and 2016 included in the Company’s Annual Reports on Form 20-F and also for the 2017 interim results should no longer be relied upon and would need to be restated; (f) insiders had engaged in additional actions to defraud the Company, including engaging in prepayments for future oil deliveries which were never made; and (g) the U.S. Department of Justice had issued a grand jury subpoena in connection with suspected felonies. Then, on November 6, 2018, Aegean commenced bankruptcy proceedings under Chapter 11 of the U.S. Bankruptcy Code in the Southern District of New York, Case No. 18-13374 (MEW).

On February 1, 2019, Lead Plaintiff filed its Consolidated Class Action Complaint (the “Complaint”) alleging that certain officers and directors of Aegean, PwC Greece, PricewaterhouseCoopers International Limited (“PwCIL”), PricewaterhouseCoopers LLP (“PwC US”), Deloitte Greece, Deloitte Touche Tohmatsu Limited (“DTTL”) and Deloitte & Touche LLP (“Deloitte US”) (collectively, “Defendants”) violated the federal securities laws. Lead Plaintiff alleges that certain of the Defendants engaged in a long-running, multi-faceted fraudulent scheme through which they (a) significantly overstated the Company’s income and revenue; (b) overstated the Company’s assets and the strength of its balance sheet; (c) misled investors concerning the adequacy of the Company’s ICFR; and (d) misappropriated Company assets. Lead Plaintiff further alleges that, as a result, Defendants were liable for false and misleading statements to the investors during the Settlement Class Period. Deloitte Greece issued unqualified or “clean” audit opinions representing that Aegean’s year-end financial statements complied with U.S. Generally Accepted Accounting Principles (“GAAP”) as to the years 2013, 2014 and 2015 and that its ICFR were adequate in 2013 and 2015, and consented to the reissuance of its 2015 audit opinions in Aegean’s Annual Report for the fiscal year ended December 31, 2016. PwC Greece became Aegean’s auditor in 2016,

several years after the start of the Settlement Class Period, and issued its first and only audit opinions representing that Aegean’s ICFR were adequate and that its 2016 year-end financial statements complied with GAAP on May 16, 2017.

On March 29, 2021, the Court issued an order deciding the motions to dismissed filed by the Defendants to end the case (the “Motion to Dismiss Order”). The Court denied PwC Greece and Deloitte Greece’s joint motion to dismiss, denied the motion by Defendant Spyros Gianniotis (“Gianniotis”) and denied, in part, the motion by Melissanidis. The Court granted motions to dismiss filed by the other Defendants, including the motions filed by PwCIL, DTTL, PwC US and Deloitte US.

Following the Court’s hearing on the motions to dismiss and the Court’s Motion to Dismiss Order, counsel for Lead Plaintiff and PwC Greece’s Counsel began good-faith negotiations with an eye toward reaching a potential settlement. On August 26, 2021, following numerous rounds of negotiations, Lead Counsel and PwC Greece’s Counsel reached an agreement in principle to settle all claims against PwC Greece. On December 22, 2021, following numerous rounds of negotiations, Lead Counsel and Deloitte Greece’s Counsel also reached an agreement in principle to settle all claims against Deloitte Greece.

If the Partial Settlements are approved by the Court, the Action will still continue against the Non-Settling Defendants, Melissanidis and Gianniotis.

3. What is a class action?

A class action is a type of lawsuit in which the claims of a number of individuals are resolved together, thus providing the class members with both consistency and efficiency. In a class action lawsuit, the Court selects one or more people, known as class representative or lead plaintiff, to sue on behalf of all people with similar claims, commonly known as the class or the class members. Once the class is certified, the Court must resolve all issues on behalf of the class members, except for any persons who choose to exclude themselves from the class. (For more information on excluding yourself from the Settlement Class, *see* Question 13.) In the Action, the Court has directed that Lead Plaintiff and Lead Counsel have primary responsibility for prosecuting all claims against Defendants on behalf of investors in the Company’s securities described above during the Settlement Class Period.

4. Why are There Partial Settlements?

Lead Plaintiff and Lead Counsel believe that the claims asserted against the Settling Defendants have merit. Lead Plaintiff and Lead Counsel recognize, however, the risks and challenges to establishing liability against the Settling Defendants, particularly since they are two foreign outside auditors. These risks are outlined in Lead Plaintiff’s Motion for Preliminary Approval of the Partial Settlements located at www.aegeansecuritieslitigation.com.

In light of the risks of collecting any sums after a trial as compared to the amount certain provided to the Settlement Class by way of the Partial Settlement Amounts (defined below) agreed to in the Partial Settlements, Lead Plaintiff and Lead Counsel believe that the proposed Partial Settlements are fair, reasonable and adequate, and in the best interests of the Settlement Class. Lead Plaintiff and Lead Counsel believe that the Partial Settlements provide a substantial benefit now, namely the payment of \$29.8 million (“Partial Settlement Amount”) (\$14.9 million from each Settling Defendant) as well as the agreement of the Settling Defendants to provide documents as detailed in the Settling Defendants’ respective Stipulations of Settlement (the Stipulation of Settlement that pertains to PwC Greece is the “PwC Greece Stipulation” and the Stipulation of Settlement that pertains to Deloitte Greece is the “Deloitte Greece Stipulation”), as compared to the risk that the claims asserted in the Complaint would produce a similar, smaller or no recovery after summary judgment, trial and appeals, possibly years in the future.

The Settling Defendants have denied and continue to deny each of the claims alleged by Lead Plaintiff in the Action. The Settling Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. The Settling Defendants also have denied and continue to deny, among other things, the allegations that Lead Plaintiff or the Settlement Class have suffered any damage or that Lead Plaintiff or the Settlement Class were harmed by the conduct alleged in the Action. PwC Greece and Deloitte Greece have asserted, and continue to assert, that their conduct was at all times proper and in compliance with all applicable provisions of law, as well as all applicable rules, regulations and/or professional

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standards, and believe that the evidence supports their position that they acted properly at all times and that the Action is without merit. Nevertheless, the Settling Defendants have taken the uncertainty and risks inherent in any litigation into account, especially in a complex case such as this. The Settling Defendants have concluded that further conduct of the Action would be protracted and expensive and that it is desirable that the Action be fully and finally settled against them in the manner and upon the terms and conditions set forth in the Settling Defendants' respective Stipulations.

5. What might happen if there were no Partial Settlements?

If there were no Partial Settlements and Lead Plaintiff failed to establish any essential legal or factual element of its claims against the Settling Defendants, neither Lead Plaintiff nor the Settlement Class would recover anything from the Settling Defendants. Also, if the Settling Defendants were successful in proving any of their defenses, the Settlement Class could recover substantially less than the amount provided in the Partial Settlements, or nothing at all. Moreover, there is also a risk to collecting upon judgment against the Settlement Defendants, who are Greek residents.

WHO IS INCLUDED IN THE PARTIAL SETTLEMENTS?

6. How do I know if I am affected by the Partial Settlements?

For the purposes of the Partial Settlements, with the few exceptions listed in Question 7 below, everyone who fits the following description is a Settlement Class Member (the "Settlement Class"): All Persons who purchased or otherwise acquired Aegean Securities (or sold Aegean put options) between February 27, 2014 through November 5, 2018, inclusive (the "Settlement Class Period"), and were allegedly damaged thereby. For the purposes of the Partial Settlements, a "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, marital community, association, joint stock company, joint venture and joint venturer, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity.

All Settlement Class Members are entitled to share in the Deloitte Greece Net Settlement Fund created pursuant to the Deloitte Greece Settlement because the Action alleges claims against Deloitte Greece for the full Settlement Class Period. However, since PwC Greece only issued an audit opinion for Aegean on May 16, 2017, there were no claims against PwC Greece prior to that date. Thus, only those Settlement Class Members who purchased after May 16, 2017 are alleged to have claims against PwC Greece, and may be entitled to share in the PwC Greece Net Settlement Fund created by the PwC Greece Settlement. The "PwC Greece Net Settlement Fund" and the "Deloitte Greece Net Settlement Fund" are the Settlement Amounts paid by each of the Settling Defendants plus any and all interest earned thereon (respectively, the "PwC Greece Settlement Fund" and the "Deloitte Greece Settlement Fund") (together, the "Partial Settlement Funds") less (a) any Taxes; (b) any Notice and Administration Costs; (c) any Litigation Expenses awarded by the Court; (d) any attorneys' fees awarded by the Court; and (e) any other costs expenses or amounts as may be approved by the Court).

RECEIPT OF THIS NOTICE DOES NOT NECESSARILY MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU ARE ENTITLED TO RECEIVE PROCEEDS FROM THE PARTIAL SETTLEMENTS.

7. Are there any exceptions to being included as a Settlement Class Member?

Yes. Excluded from the Settlement Class are: (a) Defendants and any affiliates or subsidiaries of Defendants; (b) Persons who have been dismissed from this Action (the "Dismissed Defendants," which are E. Nikolas Tavlarios, John P. Tavlarios, Jonathan McIlroy, Peter C. Georgiopoulos, Yiannis N. Papanicolaou, Konstantinos D. Koutsomitopoulos, George Konomos, Spyridon Fokas, DTTL, Deloitte US, PwCIL and PwC US); (c) present or former officers, directors, partners or controlling persons as of April 30, 2018 of Aegean, its subsidiaries or its affiliates, any Defendant or any Dismissed Defendant, and their immediate family members; (d) the directors' and officers' liability carriers and any affiliates or subsidiaries thereof of any Defendant, Dismissed Defendant or Aegean; (e) any entity in which any Defendant, Dismissed Defendant or Aegean has or has had a controlling interest; and (f) the legal representatives, heirs, estates, agents, successors or assigns of any person or entity described in the preceding categories. Also excluded from the Settlement Class are those

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Persons who timely and validly exclude themselves therefrom by submitting a request for exclusion in accordance with the requirements set forth in Question 13 below.

8. I am still not sure if I'm included.

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator (who was selected by Lead Counsel and approved by the Court to provide all notices approved by the Court to potential Settlement Class Members) at 1-877-888-9760 (Toll Free) or you can fill out the Proof of Claim and Release form (the "Claim Form" is used for submitting a claim for the Partial Settlements, which, subject to approval of the Court, shall be substantially in the form attached as Exhibit A-2 to both the PwC Greece Stipulation and the Deloitte Greece Stipulation), described in response to Question 12 below to see if you qualify. You can also contact Lead Counsel at the addresses and phone numbers listed in Question 23 below. Please do not contact the Court.

THE PARTIAL SETTLEMENTS BENEFITS

What do the Partial Settlements provide?

Settling Defendants have paid or will pay a total of \$29.8 million (comprised of \$14.9 million from PwC Greece and \$14.9 million from Deloitte Greece) into two separate escrow accounts. The \$14.9 million account from PwC Greece will earn interest, as provided for in the PwC Greece Stipulation, for the benefit of the Settlement Class Members who purchased Aegean Securities between May 17, 2017 and November 5, 2018. The \$14.9 million account from Deloitte Greece will earn interest, as provided for in the Deloitte Greece Stipulation, for the benefit of all Settlement Class Members. After deduction of (i) Taxes ("Tax" or "Taxes" means any and all taxes, fees, levies, duties, tariffs, imposts and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority, including, but not limited to, any local, state and federal taxes); (ii) Notice and Administration Costs ("Notice and Administration Costs" means the costs, fees and expenses that are incurred by the Claims Administrator in connection with (a) providing notice to the Settlement Class; and (b) administering the PwC Greece and Deloitte Greece claims process); (iii) Litigation Expenses awarded by the Court ("Litigation Expenses" refers to the reasonable costs and expenses incurred in connection with commencing, prosecuting and settling the Action (which may include the costs and expenses of Lead Plaintiff directly related to its representation of the Settlement Class), for which Lead Counsel intends to apply to the Court for reimbursement from the Partial Settlement Funds); (iv) attorneys' fees awarded by the Court; and (v) any other costs, expenses or amounts as may be approved by the Court, the respective balances of the two escrow accounts (the PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund) will be distributed to Settlement Class Members in accordance with two corresponding plans of allocation, the "PwC Greece Plan of Allocation" and the "Deloitte Greece Plan of Allocation" (collectively, the "Plans of Allocation"), as applicable, discussed in Question 10. The Partial Settlements also provide for coordination with respect to fulfillment of the terms of the Settling Defendants' respective Stipulations, including by providing certain audit workpapers.

In exchange for the Settling Defendants' payments, the claims described in response to Question 11 below will be released, relinquished, discharged and dismissed with prejudice.

The proposed Partial Settlements represent a compromise of disputed claims and do not mean that the Settling Defendants have been found liable for any claims asserted by Lead Plaintiff.

10. How much will my payment be? When will I receive it?

At this time, it is not possible to make any determination as to how much any individual Settlement Class Member may receive from the Partial Settlements. Your share of the PwC Greece Net Settlement Fund and/or Deloitte Greece Net Settlement Fund will depend on the number of valid and timely Claim Forms that Settlement Class Members send in, how many units of Aegean common stock, debt-securities (notes) and/or options you bought and sold, and when you bought and sold them.

As discussed above, Settlement Class Members will only be eligible for distribution from the PwC Greece Net Settlement Fund if they acquired their securities after May 16, 2017. You should look at the PwC Greece Plan of Allocation and the Deloitte Greece Plan of Allocation for a description of the calculations to be made by the Claims Administrator in computing the amounts to be paid to the “Authorized Claimants,” that is, those investors who submit valid and timely Claim Forms establishing that they are Settlement Class Members. See www.aegeansecuritieslitigation.com.

The Plans of Allocation will be submitted for the Court’s approval; however, such approval shall in no way disturb or affect the Court’s approval of the Settling Defendants’ respective Stipulations and shall be considered separate from the Court’s “Order and Final Judgment with Prejudice Regarding PwC Greece” (defined in the PwC Greece Stipulation) and the Court’s “Order and Final Judgment with Prejudice Regarding Deloitte Greece” (defined in the Deloitte Greece Stipulation) discussed in response to Question 11 below.

The objective of the Plans of Allocation is to equitably distribute the PwC Greece Net Settlement Fund and/or Deloitte Greece Net Settlement Fund to those Settlement Class Members who suffered economic losses as a result of the alleged wrongdoing against each of the Settling Defendants. Payment pursuant to the Plans of Allocation will be conclusive against Authorized Claimants. No person will have any claim against Lead Plaintiff, Lead Counsel, any other Plaintiff and Plaintiff’s Counsel in the Action, the Settling Defendants, PwC Greece’s Counsel, Deloitte Greece’s Counsel, the other relevant Settling Defendant’s Released Parties (as defined in Question 11 below) or their counsel, or the Claims Administrator or other agents designated by Lead Counsel arising from distributions made substantially in accordance with the Settling Defendants’ respective Stipulations, the PwC Greece Plan of Allocation and Deloitte Greece Plan of Allocation or further orders of the Court. Settling Defendants, PwC Greece’s and Deloitte Greece’s Counsel, the other relevant Settling Defendant’s Released Parties and their counsel will have no responsibility or liability whatsoever for the investment or distribution of the PwC Greece Settlement Fund and/or Deloitte Greece Settlement Fund, the PwC Greece Net Settlement Fund and/or Deloitte Greece Net Settlement Fund, the PwC Greece Plan of Allocation and/or Deloitte Greece Plan of Allocation or the determination, administration, calculation or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of Taxes owed by the PwC Greece Settlement Fund and Deloitte Greece Settlement Fund or any losses incurred in connection therewith. Lead Plaintiff, the Escrow Agent or any Claims Administrator likewise will have no liability for their reasonable efforts to execute, administer and distribute the Settlement.

Each Settlement Class Member will be deemed to have submitted to the jurisdiction of the United States District Court for the Southern District of New York with respect to his, her or its Claim Form. Persons and entities that exclude themselves from the Settlement Class will not be eligible to receive a distribution from the PwC Greece Net Settlement Fund and/or Deloitte Greece Net Settlement Fund and should not submit Claim Forms.

The Court has reserved jurisdiction to allow, disallow or adjust on equitable grounds the claim of any member of the Settlement Class.

The Partial Settlements are conditioned on two main events: (a) the entry of the Judgment by the Court, after the Court holds a hearing to decide whether to approve the Partial Settlements, as provided for in the PwC Greece Stipulation and the Deloitte Greece Stipulation (“Final Approval Hearing”); and (b) the expiration of the applicable period to file all appeals from the Orders and Final Judgments with Prejudice Regarding PwC Greece and Deloitte Greece. If the PwC Greece Settlement and/or the Deloitte Greece Settlement are approved, it is possible there may be an appeal by someone. There is always uncertainty as to how these appeals will be resolved, and resolving them can take time, perhaps more than a year. Also, if certain conditions of the PwC Greece Settlement or the Deloitte Greece Settlement, as described in the Stipulations, are not met, the Partial Settlements might be terminated and become null and void. In addition, the Claims Administrator will need time to process all of the timely claims before any distribution can be made.

11. What am I giving up to get a payment or stay in the Settlement Class?

If the Partial Settlements are approved, the Court will enter two separate orders and final judgments with prejudice, among other things, dismissing the claims against PwC Greece and Deloitte Greece and entering final judgment regarding PwC Greece and Deloitte Greece.

Among other things, the Order and Final Judgment with Prejudice Regarding PwC Greece will dismiss the claims against PwC Greece with prejudice, and will provide that Lead Plaintiff and all other Settlement Class Members will be deemed to have—and by operation of the Order and Final Judgment with Prejudice Regarding PwC Greece will have—released, relinquished, dismissed and forever discharged the PwC Greece Released Claims, including Unknown Claims, against each and all of the PwC Greece Released Parties. The terms “PwC Greece Released Claims,” “Unknown Claims,” “PwC Greece Released Party” and “PwC Greece Released Parties” are defined in the PwC Greece Stipulation, which is uploaded to www.aegeansecuritieslitigation.com.

Among other things, the Order and Final Judgment with Prejudice Regarding Deloitte Greece will dismiss the claims against Deloitte Greece with prejudice, and will provide that Lead Plaintiff and all other Settlement Class Members will be deemed to have—and by operation of the Order and Final Judgment with Prejudice Regarding Deloitte Greece will have—released, relinquished, dismissed and forever discharged the Deloitte Greece Released Claims, including Unknown Claims, against each and all of the Deloitte Greece Released Parties. The terms “Deloitte Greece Released Claims,” “Unknown Claims,” “Deloitte Greece Released Party” and “Deloitte Greece Released Parties” are defined in the Deloitte Greece Stipulation, which is uploaded to www.aegeansecuritieslitigation.com.

The Partial Settlement Agreements, available at www.aegeansecuritieslitigation.com, describe the released claims and released persons in detail. Please read each Settlement Agreement carefully. If you have any questions, you can talk to the law firm listed in Question 23 at no cost to you.

12. How do I participate in the Partial Settlements? What do I need to do?

If you purchased or otherwise acquired the securities described above, you are not excluded by the definition of the Settlement Class and you do not elect to exclude yourself from the Settlement Class, then you are a Settlement Class Member. As such, you will be bound by the proposed Partial Settlements if the Court approves either or both of them, and by any judgment or determination of the Court affecting the Settlement Class.

To qualify for payment, you must have recognized losses under the PwC Greece Plan of Allocation or the Deloitte Greece Plan of Allocation and you must timely send in a Claim Form to the Claims Administrator. A Claim Form is attached to this Notice and is also available on the settlement website maintained by the Claims Administrator, www.aegeansecuritieslitigation.com as well as Lead Counsel’s website at www.bermantabacco.com. Read the instructions carefully, fill out the Claim Form, include all supporting documentation the Claim Form asks for, sign it, and mail it postmarked no later than **October 22, 2022**. Please retain all records of your ownership of and transactions in the securities, as they may be needed to document your Claim.

Unless the Court orders otherwise, if you do not timely submit a Claim Form, you will be barred from receiving any payments from the PwC Greece Net Settlement Fund and/or Deloitte Greece Net Settlement Fund but will in all other respects be bound by the Orders and Final Judgments with Prejudice Regarding PwC Greece and Deloitte Greece.

EXCLUDING YOURSELF FROM THE SETTLEMENT

What if I do not want to be part of the Partial Settlements? How do I exclude myself?

Each Settlement Class Member will be bound by all determinations and judgments in this lawsuit, including those concerning the Partial Settlements, whether favorable or unfavorable, unless such person or entity mails, by first class mail (or its equivalent outside the U.S.), or otherwise delivers a written Request for Exclusion from the Settlement Class, addressed to:

In re Aegean Marine Petroleum Network, Inc. Securities Litigation

EXCLUSIONS

P.O Box 173001

Milwaukee, WI 53217

The exclusion request must be *received* no later than August 23, 2022. Such Persons requesting exclusion are also directed to provide the following information: (a) the name, address and telephone number of the Person seeking exclusion; (b) the identity and original face value of any Aegean Securities purchased (or otherwise acquired) during the Settlement Class Period, including the dates of each purchase or acquisition, the number of shares purchased or otherwise acquired, and the prices or other consideration paid for such purchases or acquisitions; (c) the identity and original face value of any Aegean Securities sold or otherwise disposed of during the Settlement Class Period, including the dates of each sale or other disposition, the number of Securities sold or otherwise disposed of, and the prices or other consideration received for such sales or dispositions; (d) the date of each purchase or sale transaction; and (e) a statement that the Person or entity wishes to be excluded from the Settlement Class in the *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 1:18-cv-04993 (NRB), which must be signed by such Person. Requests for Exclusion will not be valid if they do not include the information set forth above and are not received within the time stated above, unless the Court otherwise determines.

If a Person or entity requests to be excluded from the Settlement Class, that Person or entity will not receive any benefit provided for in the Settling Defendants' respective Stipulations.

THE LAWYERS REPRESENTING YOU

Do I have a lawyer in this case?

Yes. The Court appointed Berman Tabacco as Lead Counsel to represent all Settlement Class Members. Lead Counsel may be contacted at the address and phone number listed on page 17 below and listed in response to Question 23 below. There is no need to retain your own lawyer. If you want to be represented by your own lawyer, you may hire one at your own expense.

How will the lawyers be paid?

At the Final Approval Hearing, Lead Counsel will ask the Court to approve (a) payment of up to 25% of the Partial Settlement Funds, or approximately \$7,450,000, for attorneys' fees; and (b) for reimbursement of out-of-pocket expenses not to exceed \$380,000. To date, Lead Counsel has not been paid for their services for conducting this Action on behalf of Lead Plaintiff and the Settlement Class, nor for their substantial out-of-pocket expenses. The fee requested will compensate Lead Counsel for their work in achieving the PwC Greece and Deloitte Greece Partial Settlement Funds. The Court may, however, award less than this amount. In that case the difference will remain with the Partial Settlement Funds. Litigation Expenses may include reimbursement of the expenses of Lead Plaintiff in accordance with 15 U.S.C. § 77z-1(a)(4). Any fees and expenses awarded by the Court will be paid from the Partial Settlement Funds. Settlement Class Members are not personally liable for any such fees or expenses. The estimated average cost for such fees and expenses, if the Court approves Lead Counsel's fee and expense application, is \$0.1004 per affected common share.

Lead Counsel will additionally request that the Court allow Lead Counsel to draw from the Settling Parties' Partial Settlement Funds a "Litigation Expense Fund" amount of up to a total of \$2 million from both (*i.e.*, advances to defray current and future Litigation Expenses, including necessary expenses and expert fees, of prosecuting claims asserted against the Non-Settling Defendants (Melissanidis and Gianniotis, as well as any other defendant(s) later brought into the case, but excludes all relevant Settling Defendants' Released Parties (as defined in response to Question 11 above))). Any Litigation Expense Fund authorized by the Court will be an advance on (and not in addition to) any final fees or expense reimbursements awarded. The Court will determine the amount of any such award.

OBJECTING TO THE SETTLEMENT**How do I tell the Court that I do not like the Partial Settlements?**

If you are a Settlement Class Member and do not request exclusion in accordance with the response to Question 13 above, you can tell the Court that you do not agree with either or both of the Partial Settlements or any part of them, the PwC Greece Plan of Allocation, the Deloitte Greece Plan of Allocation, Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses and/or Lead Counsel's application for the establishment of a Litigation Expense Fund.

Objections or oppositions must be in writing. You must file any written objection or opposition, together with copies of all other supporting papers and briefs, with the Clerk's Office at the United States District Court for the Southern District of New York at the address set forth below on or before August 23, 2022. You must also serve the papers on Lead Counsel for the Settlement Class and counsel for the Settling Defendants at the addresses set forth below so that the papers are *received* on or before August 23, 2022.

Clerk's Office	Lead Counsel for the Settlement Class	Counsel For PwC Greece	Counsel For Deloitte Greece
UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK 500 Pearl Street New York, New York 10007	BERMAN TABACCO Nicole Lavallee, Esq. 425 California Street, Suite 2300 San Francisco, CA 94104	WILMERHALE LLP Christopher Davies 1875 Pennsylvania Avenue NW Washington, DC 20006	ORRICK, HERRINGTON & SUTCLIFFE LLP Thomas N. Kidera 51 West 52nd Street New York, NY 10019- 6142

Any objection must include: (a) the full name, address, and phone number of the objecting Settlement Class Member; (b) a list and supporting documentation evidencing all of the Settlement Class Member's transactions involving Aegean Securities included in the Settlement Class definition, including brokerage confirmation receipts or other competent documentary evidence of such transactions, including the amount and date of each purchase or sale and the prices paid and/or received; (c) a written statement of all grounds for the objection accompanied by any legal support for the objection; (d) copies of any papers, briefs or other documents upon which the objection is based; (e) a list of all persons who will be called to testify in support of the objection; (f) a statement of whether the objector intends to appear at the Final Approval Hearing; (g) a list of other cases in which the objector or the objector's counsel have appeared either as settlement objectors or as counsel for objectors in the preceding five years; and (h) the objector's signature, even if represented by counsel. Persons who intend to object to the Partial Settlements, PwC Greece Plan of Allocation, the Deloitte Greece Plan of Allocation, Lead Plaintiffs' application for attorneys' fees and reimbursement of Litigation Expenses and/or to Lead Counsel's application for the establishment of a Litigation Expense Fund and who desire to present evidence at the Final Approval Hearing, must include in their written objections the exhibits they intend to introduce into evidence at the Final Approval Hearing.

You may not object to the Partial Settlements, or any aspect of them, if you excluded yourself from the Settlement Class.

You may file a written objection without having to appear at the Final Approval Hearing. You may not appear at the Final Approval Hearing to present your objection, however, unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

You are not required to hire an attorney to represent you in making written objections or in appearing at the Final Approval Hearing. If you decide to hire an attorney, which will be at your own expense, he or she must file a Notice of Intent to Appear with the Court and serve it on Lead Counsel so that the notice is received on or before August 23, 2022.

What's the difference between objecting and being excluded from the Settlement Class?

Objecting is simply telling the Court that you do not like something about either or both of the Partial Settlements. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Partial Settlements. You do not need participate in that hearing but are welcome to do so if you so desire. This hearing may be held in person or virtually.

When and where will the Court decide whether to approve the Partial Settlements?

The Final Approval Hearing on these Partial Settlements will be held on September 13, 2022, at 2 p.m., before the Honorable Naomi Reice Buchwald, United States District Judge, at the United States District Court for the Southern District of New York, either telephonically, via video conference, or at 500 Pearl Street, Courtroom 21A, New York, New York 10007. At this hearing, the Court will consider whether the proposed Partial Settlements, the proposed PwC Greece Plan of Allocation, the proposed Deloitte Greece Plan of Allocation, Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses and Lead Counsel's application for the establishment of a Litigation Expense Fund should be approved.

Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and will be forever foreclosed from making any objection to the proposed Partial Settlements, PwC Greece Plan of Allocation, the Deloitte Greece Plan of Allocation, Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses and/or Lead Counsel's application for the establishment of a Litigation Expense Fund. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

If there are objections, the Court will consider them. The Court has discretion to listen to people who have made a written request to speak at the hearing. After the hearing, the Court will decide whether to approve either or both of the Partial Settlements, PwC Greece Plan of Allocation, the Deloitte Greece Plan of Allocation, Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses and/or Lead Counsel's application for the establishment of a Litigation Expense Fund. We do not know how long these decisions will take.

The hearing may be held virtually or moved to a different location or time without additional notice, so it is a good idea to check with Lead Counsel, www.aegeansecuritieslitigation.com or call 1-877-888-9760.

Do I have to come to the Final Approval Hearing?

No. Lead Counsel will answer questions the Judge may have. But, you are welcome to come at your own expense.

May I speak at the Final Approval Hearing?

Any Settlement Class Member who did not request to be excluded from the Settlement Class by August 23, 2022 is entitled to appear at the Final Approval Hearing, in person or through a duly authorized attorney, and to show cause (a) why either or both of the Partial Settlements should not be approved as fair, reasonable and adequate (b) why the PwC Greece Plan of Allocation and/or the Deloitte Greece Plan of Allocation should or should not be approved; (c) why judgments should not be entered thereon; or (d) why Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses

and any application for the establishment of a Litigation Expense Fund should not be granted. However, you may not be heard at the Final Approval Hearing unless, on or before August 23, 2022, you file a Notice of Intent to Appear and a statement of the position that you will assert and the grounds for the position, together with copies of any supporting papers or briefs with the Clerk of the Court, United States District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007, as described in response Question 16 above.

IF YOU DO NOTHING

What happens if I do nothing at all?

If you are a Settlement Class Member but do nothing, then you will get no money from these Partial Settlements. You must file a Claim Form to be eligible to receive anything from the Partial Settlements. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit or be part of any other lawsuit against the Settling Defendants about the legal issues in this Action, ever again.

GETTING MORE INFORMATION

Are there more details about the Partial Settlements?

Yes. This Notice summarizes the proposed Partial Settlements. More details (including definitions of various terms used in this Notice) are contained in the pleadings and other papers in this Action, including the Settling Defendants' respective Stipulations, which have been filed with the Court. Lead Plaintiff's final submissions in support of the Partial Settlements will be filed with the Court prior to the Final Approval Hearing. In addition, information about the Partial Settlements will be posted on the settlement website set up for this case: www.aegeansecuritieslitigation.com. If you have any further questions, you may contact Lead Counsel identified in the response to Question 14 above. You may also call the Claims Administrator at 1-877-888-9760 (Toll Free) to find answers to common questions about the Partial Settlements and obtain information about the status of the settlement approval process.

Who Should I Contact If I Have Questions?

This Notice contains only a summary of the terms of the proposed Partial Settlements. More detailed information about the matters involved in the Action is available at www.aegeansecuritieslitigation.com, including, among other documents, copies of the Settling Defendants' respective Stipulations, the Claim Form and the Complaint. Lead Plaintiff's submissions in for the support of the Partial Settlements and Lead Counsel's fee and expense application will be filed with the Court prior to the Final Approval Hearing.

All inquiries concerning this Notice or the Claim Form should be directed to either:

The Claims Administrator
In re Aegean Marine Petroleum Network, Inc.
Securities Litigation
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173088
Milwaukee, WI 53217

Lead Counsel
Nicole Lavalée
BERMAN TABACCO
425 California Street, Suite 2300
San Francisco, CA 94104
Telephone: (415) 433-3200
law@bermantabacco.com

DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF THE CLERK OF COURT REGARDING THIS NOTICE.

QUESTIONS? CALL 1-877-888-9760 (Toll Free) OR VISIT www.aegeansecuritieslitigation.com

SPECIAL NOTICE TO NOMINEES

Special Notice to Banks, Trustees, Brokerage Firms, or Other Nominees

If you hold any Aegean Securities purchased during the Settlement Class Period as nominee for a beneficial owner, then, within seven (7) days after you receive this Notice, you must either: (a) send a copy of this Notice and the Claim Form by first-class mail to all such Persons; or (b) provide a list of the names and addresses of such Persons to the Claims Administrator:

In re Aegean Marine Petroleum Network, Inc. Securities Litigation
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173088
Milwaukee, WI 53217

If you choose to mail the Notice and Claim Form yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing. Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for reasonable costs actually incurred or expected to be incurred in connection with forwarding the Notice and Claim Form and which would not have been incurred but for the obligation to forward the Notice and Claim Form, upon submission of appropriate documentation to the Claims Administrator.

Dated: June 3, 2022

By Order of the Clerk of Court
United States District Court
for the Southern District of New York

In re Aegean Marine Petroleum Network, Inc. Securities Litigation

c/o A.B. Data, Ltd.

P.O. Box 173088

Milwaukee, WI 53217

Toll-Free Number: 1-877-888-9760

Settlement Website: www.aegeansecuritieslitigation.com

Email: info@aegeansecuritieslitigation.com

PROOF OF CLAIM AND RELEASE FORM

To be eligible to receive a share of the PwC Greece Net Settlement Fund and/or the Deloitte Greece Net Settlement Fund in connection with two Partial Settlements in the action captioned *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 18-Civ-4993-NRB (S.D.N.Y.) (the “Action”), pending in the United States District Court for the Southern District of New York (the “Court”), you must be a Settlement Class Member and complete and sign this Proof of Claim and Release Form (“Claim Form” or “Claim”) and mail it by First-Class Mail to the above address, **postmarked no later than October 22, 2022**.

Failure to submit your Claim Form by the date specified will subject your Claim to rejection and may preclude you from being eligible to recover any money in connection with the Settlement.

Do not mail or deliver your Claim Form to the Court, the Settling Parties or their counsel. Submit your Claim Form only to the Claims Administrator at the address set forth above.

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PART I – CLAIMANT INFORMATION

(Please read Part II. General Instructions below before completing this page.)

The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above.

Beneficial Owner’s Name

Co-Beneficial Owner’s Name

Entity Name (if Beneficial Owner is not an individual)

Representative or Custodian Name (if different from Beneficial Owner(s) listed above)

Address 1 (street name and number)

Address 2 (apartment, unit or box number)

City

State

Zip Code

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Foreign Country (only if not USA)

Last four digits of Social Security Number or Taxpayer Identification Number

Telephone Number (day)

Telephone Number (evening)

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Email address (Email address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you with information relevant to this Claim.)

Account Number (account(s) through which the Securities were traded)¹

Claimant Account Type (check appropriate box):

- | | | |
|---|---------------------------------------|--------------------------------|
| <input type="checkbox"/> Individual (includes joint owner accounts) | <input type="checkbox"/> Pension Plan | <input type="checkbox"/> Trust |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Estate | |
| <input type="checkbox"/> IRA/401K | <input type="checkbox"/> Other _____ | (please specify) |

¹ If the account number is unknown, you may leave blank. If filing for more than one account for the same legal entity, you may write “multiple.” Please see paragraph 11 of the General Instructions for more information on when to file separate Claim Forms for multiple accounts, *i.e.*, when you are filing on behalf of distinct legal entities.

PART II – GENERAL INSTRUCTIONS

1. It is important that you completely read and understand the Notice of (i) Pendency of Class Action and Proposed Partial Settlements; and (ii) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys' Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund (the "Notice") that accompanies this Claim Form, including the PwC Greece Plan of Allocation and Deloitte Greece Plan of Allocation set forth in the Notice. The Notice describes the proposed Partial Settlements, how Settlement Class Members are affected by the Partial Settlements and the manner in which the PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund will be distributed if the Partial Settlements and the PwC Greece Plan of Allocation and Deloitte Greece Plan of Allocation are approved by the Court. The Notice also contains the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Claim Form. By signing and submitting this Claim Form, you will be certifying that you have read and that you understand the Notice, including the terms of the releases described therein and provided for herein.

2. This Claim Form is directed to all Persons who purchased or otherwise acquired (a) Aegean Marine Petroleum, Inc. ("Aegean") common stock (Tickers: ANW, ANWWQ) (CINS: Y0017S102) ("Common Stock"); (b) Aegean Notes ("Notes"): Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018 issued 10/23/2013 (CUSIP: Y0020QAA9, ISIN: USY0020QAA95) and/or Aegean 4.25% Convertible Unsecured Senior Notes due 12/15/2021 issued 12/19/2016 (CUSIP: 00773VAA4 (CUSIP changed to 00773VAB2 on 2/12/2018), ISIN: US00773VAB27); and/or (c) purchased call option contracts or sold put option contracts on Aegean Common Stock (collectively, "Aegean Securities") during the period between February 27, 2014 through November 5, 2018, inclusive (the "Settlement Class Period"), and were allegedly damaged thereby ("Settlement Class"). Any Person who falls within the definition of the Settlement Class is referred to as a "Settlement Class Member."

3. Excluded from the Settlement Class are: (a) Defendants and any affiliates or subsidiaries of Defendants; (b) Persons who have been dismissed from this Action ("Dismissed Defendants"); (c) present or former officers, directors, partners or controlling persons as of April 30, 2018 of Aegean, its subsidiaries or its affiliates, any Defendant or any Dismissed Defendant, and their immediate family members; (d) the directors' and officers' liability carriers and any affiliates or subsidiaries thereof of any Defendant, Dismissed Defendant or Aegean; (e) any entity in which any Defendant, Dismissed Defendant or Aegean has or has had a controlling interest; and (f) the legal representatives, heirs, estates, agents, successors or assigns of any person or entity described in the preceding categories. Also excluded from the Settlement Class are those Persons who timely and validly exclude themselves therefrom by submitting a request for exclusion in accordance with the requirements set forth in the Notice.

4. If you are not a Settlement Class Member, do not submit a Claim Form. YOU MAY NOT, DIRECTLY OR INDIRECTLY, PARTICIPATE IN THE SETTLEMENT IF YOU ARE NOT A SETTLEMENT CLASS MEMBER. THUS, IF YOU ARE EXCLUDED FROM THE CLASS (AS SET FORTH IN PARAGRAPH 3 ABOVE), ANY CLAIM FORM THAT YOU SUBMIT, OR THAT MAY BE SUBMITTED ON YOUR BEHALF, WILL NOT BE ACCEPTED.

5. If you are a Settlement Class Member, you will be bound by the terms of any judgments or orders entered in the Action related to the PwC Greece Released Parties and/or the Deloitte Greece Released Parties WHETHER OR NOT YOU SUBMIT A CLAIM FORM, unless you submit a request for exclusion from the Settlement Class. Thus, if you are a Settlement Class Member and do not request exclusion from the Settlement Class, the Final Judgment with Prejudice Regarding PwC Greece will release, and enjoin the filing or continued prosecution of, the PwC Greece Released Claims against PwC Greece, the Dismissed Defendants PricewaterhouseCoopers International Limited and PricewaterhouseCoopers LLP and the other PwC Greece Released Parties. And, if you are a Settlement Class Member and do not request exclusion from the Class, the Final Judgment with Prejudice Regarding Deloitte Greece will release, and enjoin the filing or continued prosecution of, the Deloitte Released Claims against Deloitte Greece, the Dismissed Defendants Deloitte Touche Tohmatsu Limited and, Deloitte & Touche LLP, and the other Deloitte Released Parties.

6. You may be eligible to participate in the distribution of the PwC Greece Net Settlement Fund and/or the Deloitte Greece Net Settlement Fund as described herein only if you are a member of the Settlement Class and if you complete and return this Claim Form as specified herein. If you fail to submit a timely, properly addressed, and completed Claim Form with the required documentation, your Claim may be rejected, and you may be precluded from receiving any distribution from the PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund.

7. Submission of this Claim Form does not guarantee that you will share in the proceeds of the Partial Settlements. The distribution of the PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund will be governed by the PwC Greece Plan of Allocation and the Deloitte Greece Plan of Allocation set forth in the Notice, if it is approved by the Court, or by such other plan of allocation approved by the Court.

8. Use the Schedule of Transactions in Part III of this Claim Form to supply all required details of your transaction(s) in and holdings of Aegean Securities. On the Schedule of Transactions, please provide all of the requested information with respect to your holdings, purchases, acquisitions, and sales of Aegean Securities, whether such transactions resulted in a profit or a loss. Failure to report all transaction and holding information during the requested time periods may result in the rejection of your Claim.

9. Please note: To be eligible to receive a distribution under the Deloitte Greece Plan of Allocation, you must be a Settlement Class Member and have purchased or otherwise acquired Aegean Securities (or sold Aegean put options) during the Settlement Class Period. To be eligible to receive a distribution under the PwC Greece Plan of Allocation, you must be a Settlement

Class Member and have purchased or otherwise acquired Aegean Securities (or sold Aegean put options) between May 17, 2017 and November 5, 2018.²

10. You are required to submit genuine and sufficient documentation for all of your transactions and holdings of Aegean Securities set forth in the Schedule of Transactions in Part III of this Claim Form. Documentation may consist of copies of brokerage confirmation slips or monthly brokerage account statements or an authorized statement from your broker containing the transactional and holding information found in a broker confirmation slip or account statement. The Settling Parties and the Claims Administrator do not independently have information about your investments in Aegean Securities. **IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OR EQUIVALENT CONTEMPORANEOUS DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN THE REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS. Please keep a copy of all documents that you send to the Claims Administrator. Also, please do not highlight any portion of the Claim Form or any supporting documents.**

11. **One Claim Form should be submitted for each separate legal entity or separately managed account.** Separate Claim Forms should be submitted for each separate legal entity (e.g., an individual should not combine his or her IRA holdings and transactions with holdings and transactions made solely in the individual's name). Generally, a single Claim Form should be submitted on behalf of one legal entity including all holdings and transactions made by that entity on one Claim Form. However, if a single person or legal entity had multiple accounts that were separately managed, separate Claim Forms may be submitted for each such account. The Claims Administrator reserves the right to request information on all the holdings and transactions in Aegean Securities made on behalf of a single beneficial owner.

12. All joint beneficial owners must sign this Claim Form. If you purchased or otherwise acquired Aegean Securities (or sold Aegean put options) and held the securities in your name, you are the beneficial owner as well as the record owner and you must sign this Claim Form to participate in the Settlement. If, however, you purchased or otherwise acquired Aegean Securities (or sold Aegean put options) and the securities were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner of these securities, but the third party is the record owner. The beneficial owner, not the record owner, must sign this Claim Form.

13. Agents, executors, administrators, guardians and trustees must complete and sign the Claim Form on behalf of persons represented by them, and they must:

- (a) expressly state the capacity in which they are acting;
- (b) identify the name, account number, Social Security Number (or Taxpayer Identification Number), address and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the Aegean Securities; and
- (c) furnish herewith evidence of their authority to bind to the Claim Form the person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade stock in another person's accounts.)

14. By submitting a signed Claim Form, you will be swearing that you:

- (a) own(ed) the Aegean Securities you have listed in the Claim Form; or
- (b) are expressly authorized to act on behalf of the owner thereof.

15. By submitting a signed Claim Form, you will be swearing to the truth of the statements contained therein and the genuineness of the documents attached thereto, subject to penalties of perjury under the laws of the United States of America. The making of false statements, or the submission of forged or fraudulent documentation, will result in the rejection of your Claim and may subject you to civil liability or criminal prosecution.

16. If the Court approves either or both the Partial Settlements, all payments to eligible Authorized Claimants pursuant to the PwC Greece Plan of Allocation and/or the Deloitte Greece Plan of Allocation (or such other plan of allocation as the Court approves at a later time) will be made after the completion of all Claims processing. This could take substantial time. Please be patient.

17. PLEASE NOTE: As set forth in the PwC Greece Plan of Allocation and the Deloitte Greece Plan of Allocation, each Authorized Claimant shall receive his, her or its *pro rata* share of the PwC Greece Net Settlement Fund and/or the Deloitte Greece Net Settlement Fund. If the prorated payment to any Authorized Claimant, however, calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

18. If you have questions concerning the Claim Form, or need additional copies of the Claim Form or the Notice, you may contact the Claims Administrator, A.B. Data, Ltd., by email at info@aegeansecuritieslitigation.com, or by toll-free phone at 1-877-888-9760, or you may download the documents from the Settlement website, www.aegeansecuritieslitigation.com.

² Any transactions in the Aegean Securities executed outside regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next trading session.

19. NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. To obtain the mandatory electronic filing requirements and file layout, you may visit the Settlement website at www.aegeansecuritieslitigation.com, or you may email the Claims Administrator's electronic filing department at info@aegeansecuritieslitigation.com. Any file not in accordance with the required electronic filing format will be subject to rejection. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues an email to that effect after processing your file with your Claim numbers and respective account information. Do not assume that your file has been received or processed until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the electronic filing department at info@aegeansecuritieslitigation.com to inquire about your file and confirm it was received and acceptable.

IMPORTANT: PLEASE NOTE

YOUR CLAIM IS NOT DEEMED FILED UNTIL YOU RECEIVE AN ACKNOWLEDGEMENT POSTCARD. THE CLAIMS ADMINISTRATOR WILL ACKNOWLEDGE RECEIPT OF YOUR CLAIM FORM BY MAIL WITHIN 60 DAYS. IF YOU DO NOT RECEIVE AN ACKNOWLEDGEMENT POSTCARD WITHIN 60 DAYS, PLEASE CALL THE CLAIMS ADMINISTRATOR TOLL-FREE AT 1-877-888-9760.

PART III – SCHEDULE OF TRANSACTIONS IN AEGEAN SECURITIES

Complete this Part III if, and only if, you purchased or otherwise acquired Aegean Securities (or sold Aegean put options) during the Settlement Class Period. Please include proper documentation with your Claim Form as described in detail in Part II – General Instructions, Paragraph 10, above. Do not include information in this section regarding securities other than the following Aegean Securities: (i) Aegean Common Stock; (ii) Aegean 4.00% Convertible Unsecured Senior Notes (the “4.00% Notes”) (CUSIP: Y0020QAA9); (iii) Aegean 4.25% Convertible Unsecured Senior Notes (the “4.25% Notes”) (CUSIPs: 00773VAB2, 00773VAA4 (prior to February 12, 2018)); and/or (iv) purchased call option contracts or sold put option contracts on Aegean Common Stock (collectively referred to as the “Aegean Securities”) within the Settlement Class Period.

SCHEDULE OF TRANSACTIONS IN AEGEAN COMMON STOCK

1. HOLDINGS OF AEGEAN COMMON STOCK AS OF FEBRUARY 26, 2014 – State the total number of shares of Aegean common stock (Tickers: ANW, ANWWQ) currently held as of the close of trading on February 26, 2014. (Must be documented.) If none, write “zero” or “0.”

--

2. PURCHASES/ACQUISITIONS OF AEGEAN COMMON STOCK FROM FEBRUARY 27, 2014 THROUGH FEBRUARY 4, 2019 – Separately list each and every purchase/acquisition of Aegean common stock (Tickers: ANW, ANWWQ) made from after the opening of trading on February 27, 2014, through and including the close of trading on February 4, 2019. (Must be documented.)

Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/ Acquired	Purchase/Acquisition Price Per Share	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$

3. SALES OF AEGEAN COMMON STOCK FROM FEBRUARY 27, 2014 THROUGH FEBRUARY 4, 2019 – Separately list each and every sale/disposition of Aegean common stock (Tickers: ANW, ANWWQ) that were purchased or otherwise acquired from after the opening of trading on February 27, 2014, through and including the close of trading on February 4, 2019. (Must be documented.)

IF NONE, CHECK HERE:

Date of Sale (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions, and fees)
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$

4. HOLDINGS OF AEGEAN COMMON STOCK AS OF FEBRUARY 4, 2019 – State the total number of shares of Aegean common stock (Tickers: ANW, ANWWQ) currently held as of the close of trading on February 4, 2019. (Must be documented.) If none, write “zero” or “0.”

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**IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, YOU MUST
PHOTOCOPY THIS PAGE AND CHECK THIS BOX.
IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED.**

SCHEDULE OF TRANSACTIONS IN AEGEAN 4.00% NOTES

5. HOLDINGS OF AEGEAN 4.00% NOTES AS OF FEBRUARY 26, 2014 – State the total number of \$100 par Aegean 4.00% Notes (CUSIP: Y0020QAA9) currently held as of the close of trading on February 26, 2014. (Must be documented.) If none, write “zero” or “0.”

6. PURCHASES/ACQUISITIONS OF AEGEAN 4.00% NOTES FROM FEBRUARY 27, 2014 THROUGH FEBRUARY 4, 2019 – Separately list each and every purchase/acquisition of Aegean \$100 par 4.00% Notes (CUSIP: Y0020QAA9) made from after the opening of trading on February 27, 2014, through and including the close of trading on February 4, 2019. (Must be documented.)

Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of 100 Par Notes Purchased/ Acquired	Purchase/Acquisition Price Per Note	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$

7. SALES OF AEGEAN 4.00% NOTES FROM FEBRUARY 27, 2014 THROUGH FEBRUARY 4, 2019 – Separately list each and every sale/disposition of \$100 par Aegean 4.00% Notes (CUSIP: Y0020QAA9) that were purchased or otherwise acquired from after the opening of trading on February 27, 2014, through and including the close of trading on February 4, 2019. (Must be documented.)

IF NONE, CHECK HERE:

Date of Sale (List Chronologically) (Month/Day/Year)	Number of Notes Sold	Sale Price Per Note	Total Sale Price (excluding taxes, commissions, and fees)
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$

8. HOLDINGS OF AEGEAN 4.00% NOTES AS OF FEBRUARY 4, 2019 – State the total number of \$100 par Aegean 4.00% Notes (CUSIP: Y0020QAA9) currently held as of the close of trading on February 4, 2019. (Must be documented.) If none, write “zero” or “0.”

**IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, YOU MUST
PHOTOCOPY THIS PAGE AND CHECK THIS BOX.
IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED.**

SCHEDULE OF TRANSACTIONS IN AEGEAN 4.25% NOTES

9. HOLDINGS OF AEGEAN 4.25% NOTES AS OF FEBRUARY 26, 2014 – State the total number of \$100 par Aegean 4.25% Notes (CUSIPs: 00773VAB2, 00773VAA4 (prior to February 12, 2018)) currently held as of the close of trading on February 26, 2014. (Must be documented.) If none, write “zero” or “0.”

10. PURCHASES/ACQUISITIONS OF AEGEAN 4.25% NOTES FROM FEBRUARY 27, 2014 THROUGH FEBRUARY 4, 2019 – Separately list each and every purchase/acquisition of Aegean \$100 par 4.25% Notes (CUSIPs: 00773VAB2, 00773VAA4 (prior to February 12, 2018)) made from after the opening of trading on February 27, 2014, through and including the close of trading on February 4, 2019. (Must be documented.)

Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of 100 Par Notes Purchased/ Acquired	Purchase/Acquisition Price Per Note	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$

11. SALES OF AEGEAN 4.25% NOTES FROM FEBRUARY 27, 2014 THROUGH FEBRUARY 4, 2019 – Separately list each and every sale/disposition of \$100 par Aegean 4.25% Notes (CUSIPs: 00773VAB2, 00773VAA4 (prior to February 12, 2018)) that were purchased or otherwise acquired from after the opening of trading on February 27, 2014, through and including the close of trading on February 4, 2019. (Must be documented.)

IF NONE, CHECK HERE:

Date of Sale (List Chronologically) (Month/Day/Year)	Number of Notes Sold	Sale Price Per Note	Total Sale Price (excluding taxes, commissions, and fees)
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$

12. HOLDINGS OF AEGEAN 4.25% NOTES AS OF FEBRUARY 4, 2019 – State the total number of \$100 par Aegean 4.25% Notes (CUSIPs: 00773VAB2, 00773VAA4 (prior to February 12, 2018)) currently held as of the close of trading on February 4, 2019. (Must be documented.) If none, write “zero” or “0.”

**IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, YOU MUST
PHOTOCOPY THIS PAGE AND CHECK THIS BOX.
IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED.**

SCHEDULE OF TRANSACTIONS IN AEGEAN CALL OPTIONS

13. HOLDINGS OF CALL OPTION CONTRACTS ON AEGEAN COMMON STOCK – Separately list each Aegean Call Option held as of the close of trading on February 26, 2014. (Must be documented.) If none, write “zero” or “0.”						IF NONE, CHECK HERE <input type="checkbox"/>	
Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Year)		Number of Call Option Contracts in Which You Had an Open Interest				
\$	/ /						
\$	/ /						
14. PURCHASES/ACQUISITIONS OF AEGEAN CALL OPTION CONTRACTS – Separately list each and every purchase/acquisition (including free receipts) of Aegean Call Option contracts from after the opening of trading on February 27, 2014, through and including the expiration date of any Aegean Call Option contracts that you held long as of the close of trading on February 4, 2019. (Must be documented.)							
Date of Purchase/Acquisition (Chronologically) (Month/Day/Year)	Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Day/Year)	Number of Call Option Contracts Purchased/Acquired	Purchase Acquisition Price Per Call Option Contract	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)	Insert an “E” if Exercised Insert an “X” if Expired	Exercise Date (Month/Day/Year)
/ /	\$	/ /		\$	\$		/ /
/ /	\$	/ /		\$	\$		/ /
15. SALES OF AEGEAN CALL OPTION CONTRACTS – Separately list each and every sale/disposition (including free deliveries) of Aegean Call Option contracts from after the opening of trading on February 27, 2014, through and including the expiration date of any Aegean Call Option contracts that you held long as of the close of trading on February 4, 2019. (Must be documented.)						IF NONE, CHECK HERE <input type="checkbox"/>	
Date of Sale (Chronologically) (Month/Day/Year)	Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Day/Year)	Number of Call Option Contracts Sold	Sale Price Per Call Option Contract	Insert an “E” if Exercised Insert an “X” if Expired	Total Sale Price (excluding taxes, commissions, and fees)	
/ /	\$	/ /		\$			
/ /	\$	/ /		\$			
16. ENDING HOLDINGS OF AEGEAN CALL OPTION CONTRACTS – Separately list each Aegean Call Option held as of the close of trading on February 4, 2019. (Must be documented.) If none, write “zero” or “0.”						IF NONE, CHECK HERE <input type="checkbox"/>	
Strike Price of Call Option Contract		Expiration Date of Call Option Contract (Month/Day/Year)		Number of Call Option Contracts in Which You Had an Open Interest			
\$		/ /					
\$		/ /					

SCHEDULE OF TRANSACTIONS IN AEGEAN PUT OPTIONS

17. HOLDINGS OF PUT OPTION CONTRACTS ON AEGEAN COMMON STOCK – Separately list each Aegean Put Option held as of the close of trading on February 26, 2014. (Must be documented.) If none, write “zero” or “0.”						IF NONE, CHECK HERE <input type="checkbox"/>	
Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)		Number of Put Option Contracts in Which You Had an Open Interest				
\$	/ /						
\$	/ /						
B. SALES (WRITING) OF AEGEAN PUT OPTIONS – Separately list each and every sale (writing) (including free deliveries) of Aegean Put Option contracts from after opening of trading on February 27, 2014, through and including the expiration date of Aegean Put Option contracts that you held a short position in as of the close of trading on February 4, 2019. (Must be documented.)							
Date of Sale (Writing) (Chronologically) (Month/Day/Year)	Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)	Number of Put Option Contracts Sold (Written)	Sale Price Per Put Option Contract	Total Sale Price (excluding taxes, commissions, and fees)	Insert an “A” if Assigned Insert an “X” if Expired	Exercise Date (Month/Day/Year)
/ /	\$	/ /		\$	\$		/ /
/ /	\$	/ /		\$	\$		/ /
C. PURCHASES/ACQUISITIONS OF AEGEAN PUT OPTIONS – Separately list each and every purchase/acquisition (including free receipts) of Aegean Put Option contracts from after opening of trading on February 27, 2014, through and including the expiration date of any Aegean Put Option contracts that you held a short position in as of the close of trading on February 4, 2019. (Must be documented.)						IF NONE, CHECK HERE <input type="checkbox"/>	
Date of Purchase/ Acquisition (Chronologically) (Month/Day/Year)	Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)	Number of Put Option Contracts Purchased/ Acquired	Purchase/ Acquisition Price Per Put Option Contract		Insert an “A” if Assigned Insert an “X” if Expired	Total Purchase/ Acquisition Price (excluding taxes, commissions, and fees)
/ /	\$	/ /		\$			
/ /	\$	/ /		\$			
D. ENDING HOLDINGS – Separately list all positions Aegean Put Option contracts that you had a short position in as of the close of trading on February 4, 2019, in which you had an open interest as of the expiration date. (Must be documented.)						IF NONE, CHECK HERE <input type="checkbox"/>	
Strike Price of Put Option Contract		Expiration Date of Put Option Contract (Month/Day/Year)		Number of Put Option Contracts in Which You Had an Open Interest			
\$		/ /					
\$		/ /					

PART VI – RELEASE OF CLAIMS AND SIGNATURE

YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN ON PAGE 12 OF THIS CLAIM FORM.

I (we) hereby acknowledge that, as of the Effective Date of the PwC Greece Partial Settlement, pursuant to the terms set forth in the PwC Greece Stipulation, I (we), on behalf of myself (ourselves) and my (our) heirs, executors, administrators, predecessors, successors, affiliates and assigns, in their capacities as such, shall be deemed to have, and by operation of law and of the Order and Final Judgment with Prejudice Regarding PwC Greece shall have, fully, finally and forever released, relinquished and discharged all PwC Released Claims (as defined in the PwC Greece Stipulation and in the Notice) against PwC Greece, PricewaterhouseCoopers International Limited, PricewaterhouseCoopers LLP and the other PwC Released Parties (as defined in the PwC Greece Stipulation and in the Notice), whether served or unserved with any complaint in the Action, and shall have covenanted not to sue the PwC Released Parties with respect to any such PwC Released Claims, and shall be permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any PwC Released Claims, either directly, representatively, derivatively or in any other capacity, against any of the PwC Released Parties.

I (we) hereby acknowledge that, as of the Effective Date of the Deloitte Greece Partial Settlement, pursuant to the terms set forth in the Deloitte Greece Stipulation, I (we), on behalf of myself (ourselves) and my (our) heirs, executors, administrators, predecessors, successors, affiliates and assigns, in their capacities as such, shall be deemed to have, and by operation of law and of the Order and Final Judgment with Prejudice Regarding Deloitte Greece shall have, fully, finally and forever released, relinquished and discharged all Deloitte Released Claims (as defined in the Deloitte Greece Stipulation and in the Notice) against Deloitte Greece, Deloitte Touche Tohmatsu Limited, Deloitte & Touche LLP and the other Deloitte Released Parties (as defined in the Deloitte Greece Stipulation and in the Notice), whether served or unserved with any complaint in the Action, and shall have covenanted not to sue the Deloitte Released Parties with respect to any such Deloitte Released Claims, and shall be permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any Deloitte Released Claims, either directly, representatively, derivatively or in any other capacity, against any of the Deloitte Released Parties.

CERTIFICATION

By signing and submitting this Claim Form, the Claimant(s) or the person(s) who represent(s) the Claimant(s) certifies (certify), as follows:

1. that I (we) have read and understand the contents of the Notice and this Claim Form, including the releases provided for in the Settlement and the terms of the PwC Greece Plan of Allocation and the Deloitte Greece Plan of Allocation;
2. that the Claimant(s) is a (are) Settlement Class Member(s), as defined in the Notice and in paragraph 2 on page 3 of this Claim Form, and is (are) not excluded from the Settlement Class by definition or pursuant to request as set forth in the Notice and in paragraph 3 on page 3 of this Claim Form;
3. that I (we) own(ed) Aegean Securities and have not assigned the claim against either of the Settling Defendants, PricewaterhouseCoopers International Limited, PricewaterhouseCoopers LLP, Deloitte Touche Tohmatsu Limited, Deloitte & Touche LLP, or the other PwC Released Parties or the Deloitte Released Parties to another or that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;
4. that the Claimant(s) has (have) not submitted any other Claim covering the same purchases/acquisitions of Aegean Securities and knows (know) of no other person having done so on the Claimant's (Claimants') behalf;
5. that the Claimant(s) submit(s) to the jurisdiction of the Court with respect to Claimant's (Claimants') Claim and for purposes of enforcing the releases set forth herein;
6. that I (we) agree to furnish such additional information with respect to this Claim Form as Lead Counsel, the Claims Administrator or the Court may require;
7. that the Claimant(s) waive(s) the right to trial by jury, to the extent it exists, and agree(s) to the Court's summary disposition of the determination of the validity or amount of the Claim made by this Claim Form;
8. that I (we) acknowledge that the Claimant(s) will be bound by and subject to the terms of any judgment(s) that may be entered in the Action; and

9. that the Claimant(s) is (are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (a) the Claimant(s) is (are) exempt from backup withholding or (b) the Claimant(s) has (have) not been notified by the IRS that he/she/it is subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified the Claimant(s) that he/she/it is no longer subject to backup withholding. **If the IRS has notified the Claimant(s) that he, she or it is subject to backup withholding, please strike out the language in the preceding sentence indicating that the Claim is not subject to backup withholding in the certification above.**

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

Signature of Claimant Date

Print your name here

Signature of joint Claimant, if any Date

Print your name here

If the Claimant is other than an individual, or is not the person completing this form, the following also must be provided:

Signature of person signing on behalf of Claimant Date

Print your name here

Capacity of person signing on behalf of Claimant, if other than an individual, e.g., executor, president, trustee, custodian, etc. (Must provide evidence of authority to act on behalf of Claimant – see paragraph 13 on page 4 of this Claim Form.)

REMINDER CHECKLIST:

1. Please sign the above release and certification. If this Claim Form is being made on behalf of joint Claimants, then both must sign.
2. Remember to attach only **copies** of acceptable supporting documentation, as these documents will not be returned to you.
3. Please do not highlight any portion of the Claim Form or any supporting documents.
4. Do not send original security certificates or documentation. These items cannot be returned to you by the Claims Administrator.
5. Keep copies of the completed Claim Form and documentation for your own records.
6. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your Claim is not deemed filed until you receive an acknowledgement postcard. **If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll-free at 1-877-888-9760.**
7. If your address changes in the future, or if this Claim Form was sent to an old or incorrect address, please send the Claims Administrator written notification of your new address. If you change your name, please inform the Claims Administrator.
8. If **you** have any questions or concerns regarding your Claim, please contact the Claims Administrator at the address below, by email at info@aegeansecuritieslitigation.com, toll-free at 1-877-888-9760, or visit www.aegeansecuritieslitigation.com.

Please DO NOT call the Settling Defendants or any of the other Defendants or their counsel with questions regarding your Claim.

THIS CLAIM FORM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, RECEIVED OR POSTMARKED NO LATER THAN OCTOBER 22, 2022, ADDRESSED AS FOLLOWS:

In re Aegean Marine Petroleum Network, Inc. Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 173088
Milwaukee, WI 53217

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted if a postmark date on or before October 22, 2022 is indicated on the envelope and it is mailed First-Class and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to fully process all of the Claim Forms. Please be patient and notify the Claims Administrator of any change of address.

In re Aegean Marine Petroleum Network, Inc. Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 173088
Milwaukee, WI 53217

COURT-APPROVED NOTICE REGARDING
In re Aegean Marine Petroleum Network, Inc. Securities Litigation

EXHIBIT B



July 25, 2022

RE: *In re Aegean Marine Petroleum Network, Inc. Securities Litigation* Case No. 1:18-CV-04993 (NRB)

ATTENTION: UPATED CUSIP (Y0020QAA9) FOR AEGEAN MARINE PETROLEUM NETWORK, INC. 4.00% CONVERTIBLE UNSECURED SENIOR NOTES DUE 11/1/2018, ISSUED 10/23/2013.¹

The purpose of this letter is to inform you of an update to the CUSIP previously provided to you for the Aegean Marine Petroleum Network, Inc. (“Aegean”) 4.00% Convertible Unsecured Senior Notes due 11/1/2018, issued 10/23/2013 (the “4.00% Notes”) and to **request that you perform an updated search to determine whether you held as nominee for a beneficial owner any 4.00% Notes between February 27, 2014 through November 5, 2018, inclusive (“the Settlement Class Period”).**

The updated CUSIP for the 4.00% Notes is: Y0020QAA9.

If you hold any 4.00% Notes under the above-referenced CUSIP that were purchased or otherwise acquired during the Settlement Class Period as nominee for a beneficial owner, then, within seven (7) days after you receive this letter, you must either: (a) send a copy of the Notice and the Claim Form by first-class mail to all such Persons; or (b) provide a list of the names and addresses of such Persons to the Claims Administrator:

In re Aegean Marine Petroleum Network, Inc. Securities Litigation

c/o A.B. Data, Ltd.

P.O. Box 173088

Milwaukee, WI 53217

Toll-Free Number: 1-877-888-9760

Settlement Website: www.aegeansecuritieslitigation.com

Email: info@aegeansecuritieslitigation.com

If you choose to mail the Notice and Claim Form yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing. Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for reasonable costs actually incurred or expected to be incurred in connection with forwarding the Notice and Claim Form and which would not have been incurred but for the obligation to forward the Notice and Claim Form, upon submission of appropriate documentation to the Claims Administrator.

A.B. DATA, LTD.
Claims Administrator

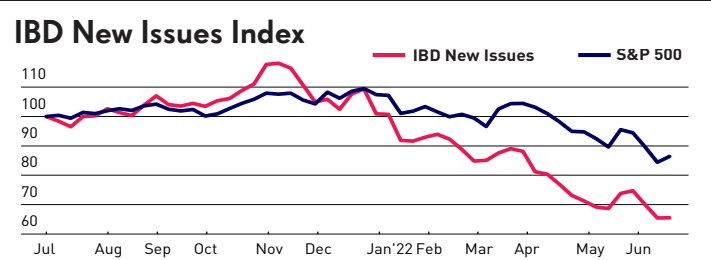
¹ All capitalized terms in this letter have the same meaning as those defined in the previously served Notice of (i) Pendency of Class Action and Proposed Partial Settlements; and (ii) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys’ Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund (the “Notice”).

EXHIBIT C

AFTER MARKET

IPO Market Is The Slowest Since 2009

Recession fears and record inflation point to the slowest second quarter for initial public offerings since the recession in 2009, Renaissance Capital says. It sees the quarter ending with 21 IPOs, raising \$2.1 billion. Several large IPOs updated plans to go public, but new filings sank to a six-year low.



Company	Symbol	Offering Date	Offering Price	Current Price	% Chg	EPS Rtg	Industry Group	Lead Underwriter
Belite Bio Inc Ads	BLTE	4/29/22	6.00	34.28	471.3	59	Medical-Biomed/Biotech	Benchmark Company
Cadre Holdings Inc	CDRE	11/4/21	13.00	19.15	47.3	9	Security/Str	Stifel Nicolaus Weisel
Aris Water Solutions CIA	ARIS	10/22/21	13.00	16.83	29.5	84	Pollution Control	Goldman Sachs & Co
Credo Tech Grp Hldng	CRDD	1/27/22	10.00	12.74	27.4	76	Internet-Network Strms	Goldman Sachs & Co
Aeroclean Technologies	AERC	11/24/21	10.00	12.58	25.8	17	Security/Str	Benchmark Company
Arcelex Inc	ACLX	2/4/22	15.00	17.93	19.5	1	Medical-Biomed/Biotech	Bofa Securities Inc
Cincor Pharma Inc	CINC	1/7/22	16.00	19.03	18.9	1	Medical-Biomed/Biotech	Morgan Stanley
Genius Group Ltd	GNS	4/12/22	6.00	6.55	9.2	17	Computer Sftwr-Edu/Media	ThinkEquity Partners

THE NEW AMERICA

ENPHASE ENERGY Fremont, California

Why This Top-Notch Solar Stock Is Outperforming Its Rivals

BY ALLISON GATLIN
INVESTOR'S BUSINESS DAILY

From solar panels to electric vehicles, green energy is booming, says Enphase Energy (ENPH) Chief Executive Badri Kothandaraman, as ENPH stock outperforms its rivals. The company was founded in 2006 and makes microinverters, plug-and-play devices that convert the electricity generated by solar panels into the power the grid can use. Enphase also makes batteries that can store excess energy for use at nighttime or during outages. Kothandaraman sees widespread solar energy adoption on the horizon. He cites the growing popularity of electric vehicles with names like Tesla (TSLA), BMW (BMWYY) and General Motors (GM) in the arena. Meanwhile, rising gas prices amid the war in Ukraine have shined a light on the benefits of energy independence. Further, climate change concerns continue to dominate the green energy conversation. Enphase's role in all this? "We create best-in-class solar plus storage home energy systems," Kothandaraman said recently. "We are well-placed to capitalize on the trend towards full home electrification, and look forward to ramping our presence in Europe in a significant manner over the coming months and years."



Enphase microinverters installed in solar projects for the San Diego Unified School District. Enphase stock is climbing this year as rivals slide.

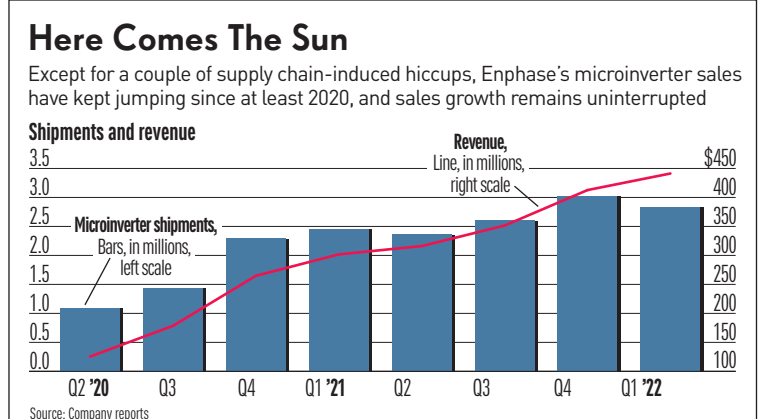
www.enphase.com	
Ticker	ENPH
Share price*	Near 192
12-month sales	\$1.52 bil
5-year profit growth rate	227%

Composite Rating	98
Earnings Per Share	96
Relative Price Strength	93
Industry Group Rank	28
Rank Within Industry Group	2
Sales+Profit Margins+ROE	A
Accumulation/Distribution	B

See Investors.com for more details *As of 6/22/22

SolarEdge in residential supply — a bullish move considering SolarEdge's dominance as recently as 2019. That year, Wood Mackenzie's U.S. PV (photovoltaics) Leaderboard estimated SolarEdge had 60.5% of the U.S. market with Enphase trailing at a distant 19.2%.

The German Play
But Enphase's focus right now is on Europe, where policymakers are easing the way for solar use. CEO Kothandaraman says Germany is a particularly interesting market. ENPH stock investors are watching to see how much market share Enphase can grab in Germany. According to Bloomberg, Germany added 5.3 gigawatts of solar capacity in 2021, up 10% from the year before. Germany's solar capacity is 59 gigawatts currently vs. 97.2 gigawatts in the U.S. But about 10% of Germany's electricity comes from solar vs. just 3% in the U.S. Kothandaraman estimates about 80% of solar-using houses in Ger-



Tough Solar Market
Solar stocks have taken a beating in 2022. But ENPH stock remains in the green with a nearly 6% gain this year as of Tuesday's close. On the flip side, IBD's Energy-Solar industry group

— which tracks 21 companies — has fallen 13%. The group still ranks No. 19 out of 197 groups tracked by IBD. Enphase stock is ranked second in its industry group behind China-based Daqo New Energy (DQ),

Its closest rival is SolarEdge (SEDG), which is in the third position. Together, Enphase and SolarEdge supply more than 90% of the U.S. market for solar inverters. In late 2021, Enphase overtook

many opt for storage systems. The opportunity is not lost on ENPH stock investors and analysts. "When they say solar, they mean solar, battery, electrical vehicle charger and the heat pump," he said. "So, there's an incredible opportunity there for us. And the companies that will be successful are companies that can manage all of these resources: solar, storage, electric vehicles and heat pumps."

Little Storage In California
By comparison, less than 10% of solar-using residences in California — a big U.S. market for solar — also have storage systems, according to government officials. The state is now considering a proposal to incentivize storage systems and lessen the evening/nighttime burden on California's grid. Behind Germany, Enphase is also strong in Netherlands, France and Belgium. It's also focusing on newer markets in Italy, Spain and Portugal. Each country is diverse and has different needs, Kothandaraman said. He says the company is tripling its spending in Europe and is seeing benefits in both market expansion as well as market share. "I would say the market is growing so much," he said. "It's part of market expansion. And, of course, we do take market share because of our quality and customer experience. I can't quantify how much is each but, yeah, I would say that it will be a healthy mix of both." The focus on Europe is paying off for ENPH stock. Shares broke out of a double-bottom base with a buy point at 193 on May 31, MarketSmith.com shows. Though the solar stock has bounced into and out of its buy zone, shares were still actionable as of the close on Tuesday. The buy zone runs from 193 to 202.65.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE AEGEAN MARINE PETROLEUM NETWORK, INC. SECURITIES LITIGATION

Case No. 1:18-cv-04993 (NRB)
Hon. Naomi Reice Buchwald

SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED PARTIAL SETTLEMENTS; AND (II) FINAL APPROVAL HEARING FOR THE PARTIAL SETTLEMENTS, PLANS OF ALLOCATION, MOTION FOR APPROVAL OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES AND APPLICATION FOR THE ESTABLISHMENT OF A LITIGATION EXPENSE FUND

TO: All Persons who purchased or otherwise acquired Aegean Marine Petroleum Network, Inc. ("Aegean") securities or sold Aegean put options between February 27, 2014 through November 5, 2018, inclusive (the "Settlement Class Period"), and were allegedly damaged thereby.

The securities subject to these proposed Partial Settlements consist of: (a) the common stock of Aegean (Tickers: ANWWQ; CINS: Y0017S102) (pre-bankruptcy Aegean traded under the ticker "ANW"); (b) Aegean 4.00% Convertible Unsecured Senior Notes due 11/1/2018, issued 10/23/2013 (CUSIP: EJ8900817; ISIN: USY0020QAA95); (c) Aegean 4.25% Convertible Unsecured Senior Notes due 12/15/2021, issued 12/19/2016 (CUSIP: 00773VAA4 (CUSIP changed to 00773VAB2 on 2/12/2018); ISIN: US00773VAB27); (d) Aegean call options; and (e) Aegean put options (collectively, "Aegean Securities").

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY TWO PROPOSED PARTIAL SETTLEMENTS OF A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

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YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the Court, that a Settlement Class in the above-captioned litigation (the "Action") has been preliminarily certified for the purposes of these proposed Partial Settlements only.

YOU ARE ALSO NOTIFIED that Utah Retirement Systems ("Lead Plaintiff"), on behalf of itself and the proposed Settlement Class, has reached two proposed Partial Settlements (one with PricewaterhouseCoopers Auditing Company S.A. ("PwC Greece") for \$14.9 million in cash and one with Deloitte Certified Public Accountants, S.A. ("Deloitte Greece") for \$14.9 million in cash) that will, among other things, resolve all claims against PwC Greece and Deloitte Greece (the "Settling Defendants") in the Action (the "Partial Settlements") if approved.

A hearing (the "Final Approval Hearing") will be held before the Honorable Naomi Reice Buchwald, United States District Judge for the United States District Court for the Southern District of New York, either telephonically, via video conference, or at 500 Pearl Street, Courtroom 21-A, New York, New York, 10007 on **September 13, 2022 at 2:00 p.m.**, to, among other things, determine whether: (i) the proposed Partial Settlements should be approved by the Court as fair, reasonable and adequate; (ii) the Action should be dismissed with prejudice against PwC Greece, final judgment should be entered as to the claims against PwC Greece and the PwC Greece Released Claims should be released as against the PwC Greece Released Parties, as set forth in the PwC Greece Stipulation and Agreement of Partial Settlement; (iii) the proposed PwC Greece Plan of Allocation for distribution of the PwC Greece Settlement Fund and any interest earned thereon, less Taxes, Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys' fees awarded by the Court, and any other costs, expenses, or amounts as may be approved by the Court (the "PwC Greece Net Settlement Fund") should be approved as fair and reasonable; (iv) the Action should be dismissed with prejudice against Deloitte Greece, final judgment should be entered as to the claims against Deloitte Greece and the Deloitte Greece Released Claims should be released as against the Deloitte Greece Released Parties, as set forth in the Stipulation and Agreement of Partial Settlement with Deloitte Certified Public Accountants, S.A.; (v) the proposed Deloitte Greece Plan of Allocation for distribution of the Deloitte Greece Settlement Fund and any interest earned thereon, less Taxes, Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys' fees awarded by the Court, and any other costs, expenses, or amounts as may be approved by the Court (the "Deloitte Greece Net Settlement Fund") should be approved as fair and reasonable; (vi) whether Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses should be approved by the Court; and (vii) whether Lead Counsel's application for the establishment of a Litigation Expense Fund should be approved by the Court. The Court may change the date of the Final Approval Hearing without providing another notice. You do NOT need to attend the Final Approval Hearing in order to receive a distribution from the PwC Greece Net Settlement Fund and/or the Deloitte Greece Net Settlement Fund.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS MAY BE AFFECTED BY THE PROPOSED PARTIAL SETTLEMENTS AND YOU MAY BE ENTITLED TO SHARE IN THE PWC GREECE NET SETTLEMENT FUND IF YOU PURCHASED OR ACQUIRED AEGEAN SECURITIES BETWEEN MAY 17, 2017 AND NOVEMBER 5, 2018 AND/OR THE DELOITTE GREECE NET SETTLEMENT FUND IF YOU PURCHASED OR ACQUIRED AEGEAN SECURITIES BETWEEN FEBRUARY 27, 2014 AND NOVEMBER 5, 2018. If you have not yet received the printed (a) Notice of (i) Pendency of Class Action and Proposed Partial Settlements; and (ii) Final Approval Hearing For The Partial Settlements, Plans of Allocation, Motion For Approval of Attorneys' Fees and Reimbursement of Litigation Expenses and Application For The Establishment of a Litigation Expense Fund ("Notice"), or (b) the Proof of Claim and Release form ("Claim Form"), you can obtain a copy of those documents on the settlement website www.AegeanSecuritiesLitigation.com, or by contacting the Claims Administrator:

In re Aegean Marine Petroleum Network, Inc. Securities Litigation
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173088
Milwaukee, WI 53217

Please refer to the settlement website for more detailed information and to review the documents pertaining to the Proposed Partial Settlements. Inquiries may also be made to Lead Counsel:

Nicole Lavallo
BERMAN TABACCO
44 Montgomery Street, Suite 650
San Francisco, CA 94104
Telephone: (415) 433-3200
law@bermantabacco.com

The PwC Greece Net Settlement Fund and the Deloitte Greece Net Settlement Fund (i.e., the Settlement Amount plus any and all interest earned thereon less (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any cost and expense reimbursement awarded by the Court; (iv) any attorneys' fees awarded by the Court; and (v) any other costs or fees approved by the Court) will be distributed to Class Members in accordance with the PwC Greece Plan of Allocation and the Deloitte Greece Plan of Allocation.

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DATED: June 27, 2022

THE HONORABLE NAOMI REICE BUCHWALD
District Judge, United States District Court for the Southern District of New York

Strong Quarterly Numbers
Enphase also put up strong first-quarter numbers. Sales grew about 7% to \$441.3 million and touched a record. Adjusted profit rocketed 41% to 79 cents and beat forecasts by a dime. The company also raised its outlook for the second quarter "driven by pricing power and strong demand in the U.S. and especially Europe," Credit Suisse analyst Maheep Mandloi said in an April report to clients. "We estimate Enphase first-quarter U.S. residential shipments of 801 megawatts, up 21% year over year, positive for demand growth in the year," he said. "Management also doesn't expect any significant impact on solar module supply for the residential market." The latter point is bullish for ENPH stock, which saw supply chain issues hit microinverter shipments in the first quarter of 2022 and the second quarter of 2021. In Europe, first-quarter revenue dipped 6% sequentially, but jumped 39% year over year. In the U.S., sales rose 9% and 49%, respectively. Mandloi boosted his price target on Enphase stock by 11 to 174 due to higher margins and international growth. But he kept his neutral rating.

Near Perfect Rating
Another strong point for ENPH stock: Its nearly perfect Composite Rating of 98. This puts shares in the top 2% of all stocks in terms of fundamental and technical measures, according to IBD Digital. CEO Kothandaraman says demand is growing across its suite of microinverters and batteries. That does not mean Enphase isn't without its challenges. Supply chain issues have created a lengthy wait time for batteries: 14-16 weeks. Further, Covid lockdowns have caused some "hiccups" for raw materials, he adds. But "we have made all of the necessary adjustments there," Kothandaraman said. "We have a number of suppliers for each part. So, we have learned how to mitigate our risks a lot. So, I cannot predict what's going to happen tomorrow, but I can say right now our situation is quite stable." ENPH stock investors are taking notice. Despite the supply chain struggles, shares have a high Relative Strength Rating of 93 out of 99, putting 12-month performance among the leading 7% of all stocks.

EXHIBIT D

Berman Tabacco Announces Proposed Partial Class Action Settlements for All Persons Who Purchased or Otherwise Acquired Aegean Marine Petroleum Network, Inc. ("Aegean") Securities or Sold Aegean Put Options

NEWS PROVIDED BY
Berman Tabacco →
Jun 27, 2022, 10:00 ET

NEW YORK, June 27, 2022 /PRNewswire/ --

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE AEGEAN MARINE) Case No. 1:18-cv-04993 (NRB)
PETROLEUM NETWORK, INC.)
SECURITIES LITIGATION) Hon. Naomi Reice Buchwald

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law@bermantabacco.com

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THE HONORABLE NAOMI REICE BUCHWALD

District Judge, United States District Court for the Southern District of New York

SOURCE Berman Tobacco

Exhibit 7



CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

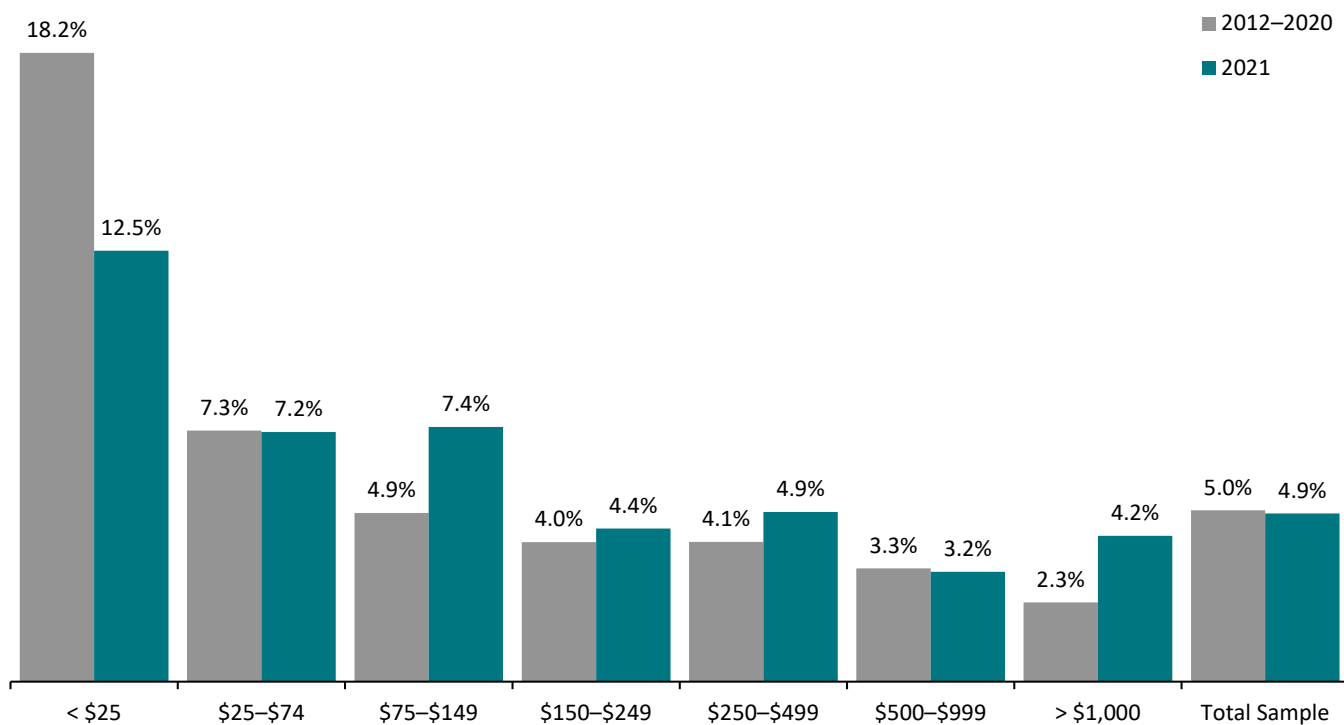
Securities Class Action Settlements

2021 Year in Review

- Cases with larger “simplified tiered damages” are more likely to be associated with factors such as institutional lead plaintiffs, related SEC actions, or criminal charges. (See *Analysis of Settlement Characteristics on pages 9–12 for additional discussion of these factors.*)
- Among cases with Rule 10b-5 claims, the median class period length declined 20% in 2021 from the median class period length observed in 2020, explaining, in part, the relatively low median “simplified tiered damages.”
- Fourteen settlements in 2021 had “simplified tiered damages” less than \$25 million, the largest proportion of such cases in more than 15 years.
- Cases with less than \$25 million in “simplified tiered damages” typically settle more quickly. In 2021, these cases settled within 2.5 years on average, compared to about four years for cases with “simplified tiered damages” greater than \$500 million.
- Half of the cases settled in 2021 with “simplified tiered damages” of less than \$25 million involved issuers that had been delisted from a major exchange and/or declared bankruptcy prior to settlement.
- Very large cases (more than \$1 billion in “simplified tiered damages”) typically settle for a smaller percentage of such damages. However, compared to cases with “simplified tiered damages” between \$150 million and \$1 billion, this pattern did not hold in 2021.

Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges in Rule 10b-5 Cases 2012–2021

(Dollars in millions)



Note: Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

Analysis of Settlement Characteristics

GAAP Violations

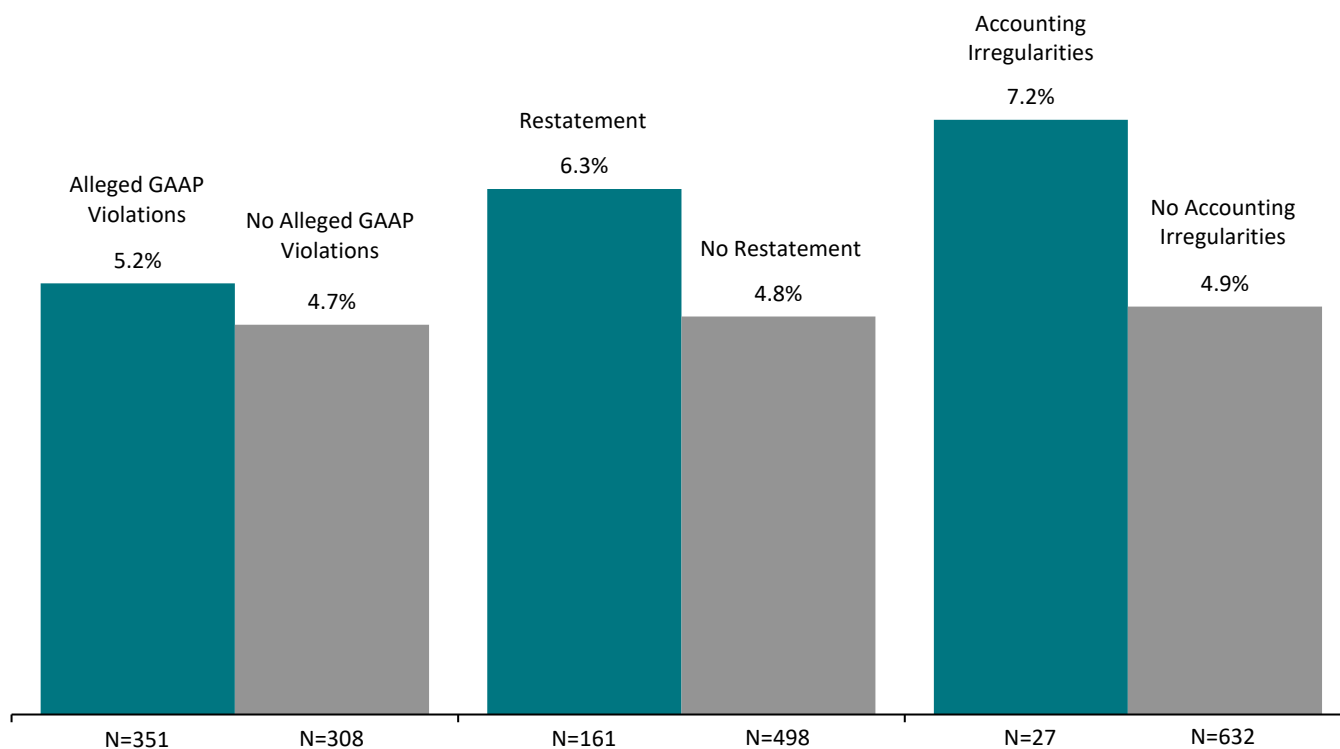
This analysis examines allegations of GAAP violations in settlements of securities class actions involving Rule 10b-5 claims, including two sub-categories of GAAP violations—financial statement restatements and accounting irregularities.¹⁵ For further details regarding settlements of accounting cases, see Cornerstone Research’s annual report on *Accounting Class Action Filings and Settlements*.¹⁶

- In 2021, median “simplified tiered damages” for cases involving GAAP allegations were 38% higher than the 2012–2020 median for such cases.
- As this research has observed, settlements as a percentage of “simplified tiered damages” for cases involving GAAP allegations are typically higher than for non-GAAP cases. This is true even as the rate of accounting allegations has declined in recent years. For example, only 14% of settlements in 2021 involved a restatement of financial statements.

- The frequency of an outside auditor codefendant has declined substantially in recent years. In 2021, an outside auditor was a codefendant in just 3% of settlements.
- The frequency of reported accounting irregularities among settlements from 2017 to 2021 was also low, at just 3.5% of cases. Of those cases, more than 50% also involved criminal charges/indictments related to the allegations in the class action.

The proportion of settled cases in 2021 with Rule 10b-5 claims alleging GAAP violations was 32%, an all-time low among all post-Reform Act years.

Figure 8: Median Settlements as a Percentage of “Simplified Tiered Damages” and Allegations of GAAP Violations 2012–2021



Note: “N” refers to the number of cases.

Case Stage at the Time of Settlement

In collaboration with Stanford Securities Litigation Analytics (SSLA),²¹ this report analyzes settlements in relation to the stage in the litigation process at the time of settlement.

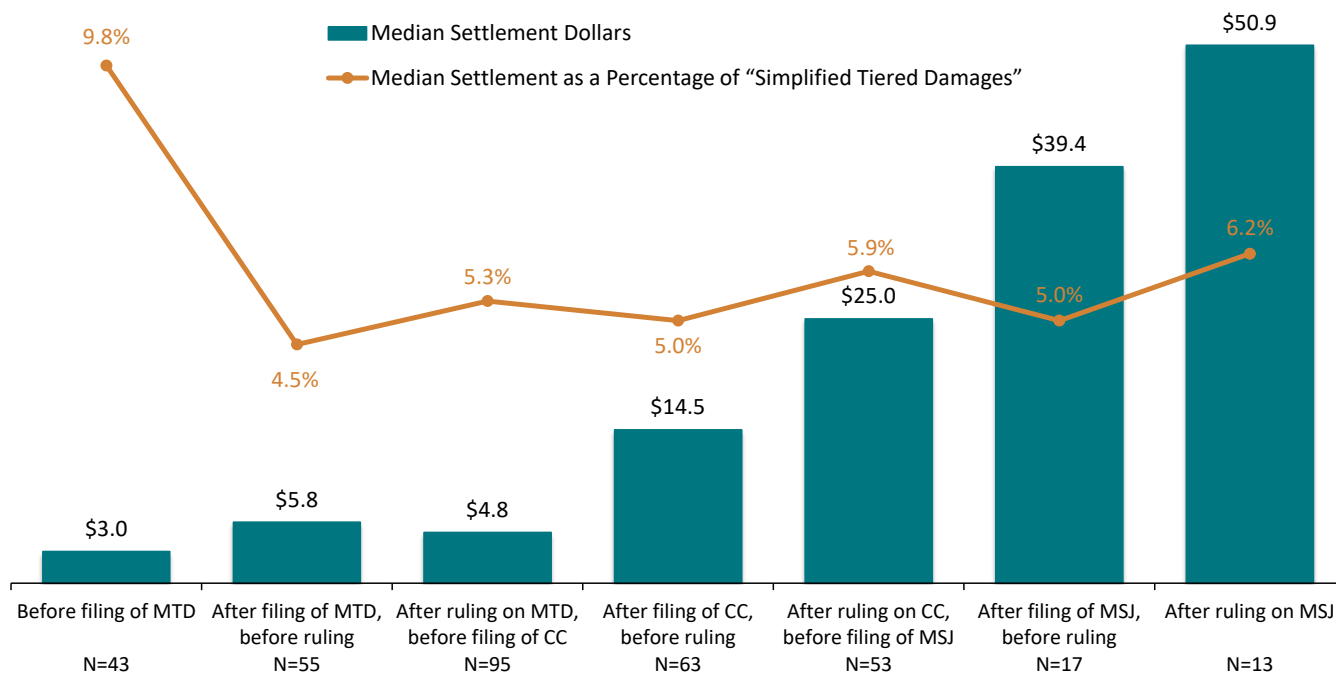
- Despite the overall smaller size of cases settled in 2021 and the shorter time to reach settlement, the stage at which cases settled remained largely unchanged. For example, in 2021, more than 60% of cases were resolved before a motion for class certification was filed, compared to 57% for 2017–2020 settlements.
- Similarly, approximately 20% of settlements in 2021 reached settlement sometime after a ruling on a motion for class certification, compared to 24% for 2017–2020 settlements.

- In 2021, cases that settled after a motion for class certification was filed were substantially larger than cases that settled at earlier stages. In particular, median “simplified tiered damages” for cases settling after a motion for class certification had been filed was more than eight times the median for cases that resolved prior to such a motion.
- Cases settling at later stages in 2021 were also larger in terms of issuer size. Specifically, the median issuer-reported total assets for 2021 cases that settled after the filing of a motion for summary judgment was more than five times the median for cases that settled prior to such a motion being filed.

Once a motion for class certification was filed, the median interval to the settlement hearing date for 2021 settlements was around 1.5 years.

Figure 13: Median Settlement Dollars and Resolution Stage at Time of Settlement 2017–2021

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented. “N” refers to the number of cases. MTD refers to “motion to dismiss,” CC refers to “class certification,” and MSJ refers to “motion for summary judgment.” This analysis is limited to cases alleging Rule 10b-5 claims.

Appendix 3: Settlements by Federal Circuit Court 2012–2021

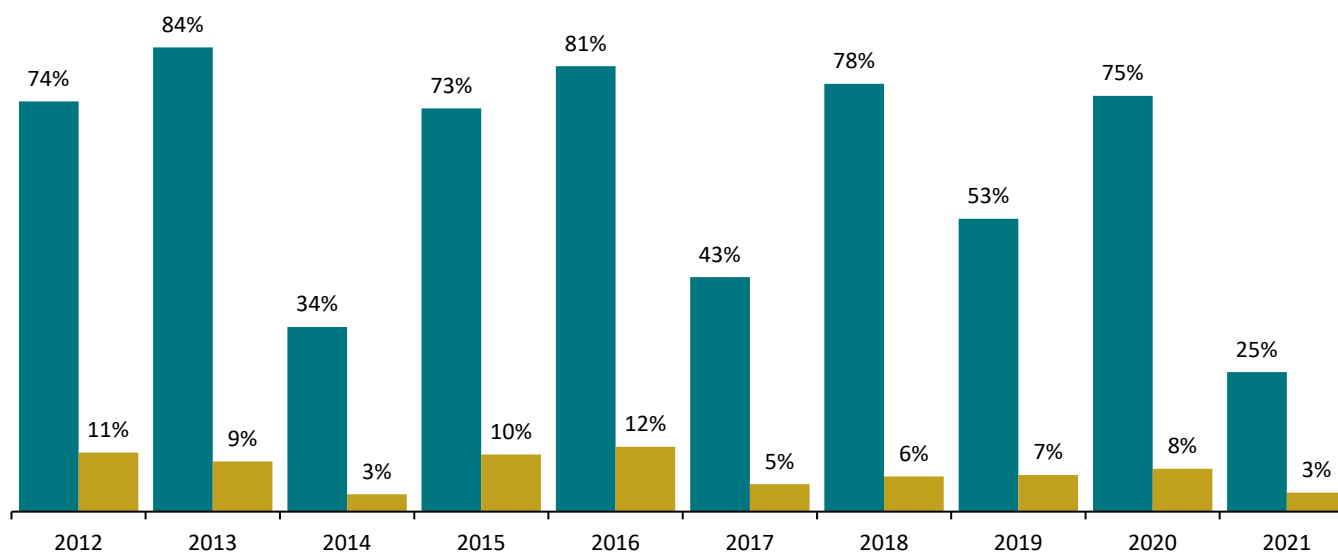
(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of “Simplified Tiered Damages”
First	20	\$10.8	3.2%
Second	192	\$9.3	5.1%
Third	65	\$7.0	5.6%
Fourth	24	\$20.1	4.1%
Fifth	36	\$9.9	5.0%
Sixth	30	\$13.3	7.4%
Seventh	35	\$14.2	3.9%
Eighth	13	\$14.7	6.8%
Ninth	183	\$6.9	4.9%
Tenth	17	\$8.5	5.3%
Eleventh	38	\$11.0	4.9%
DC	4	\$24.8	2.2%

Note: Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented. Settlements as a percentage of “simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

Appendix 4: Mega Settlements 2012–2021

- Total Mega Settlement Dollars as a Percentage of All Settlement Dollars
- Number of Mega Settlements as a Percentage of All Settlements



Note: Mega settlements are defined as total settlement funds equal to or greater than \$100 million. Settlement dollars are adjusted for inflation; 2021 dollar equivalent figures are presented.