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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12
13 ANTOINE DE SEJOURNET, ADAM
14 HENICK, and LINDA HOLDER,
15 INDIVIDUALLY AND ON BEHALF OF
16 ALL OTHERS SIMILARLY
SITUATED,

17 Plaintiffs,

18 vs.

19
20 GOLDMAN KURLAND AND
21 MOHIDIN, LLP, and AHMED
22 MOHIDIN,

23 Defendants.

CASE No.: 13-cv-1682-DMG
(MRWx)

**LEAD PLAINTIFFS' REPLY IN
FURTHER SUPPORT OF
MOTIONS FOR: (1) FINAL
APPROVAL OF CLASS
ACTION SETTLEMENT AND
PLAN OF ALLOCATION; AND
(2) AN AWARD OF
ATTORNEYS' FEES AND
REIMBURSEMENT OF
EXPENSES**

Date: March 11, 2016
Time: 9:30 A.M.
Courtroom: 7- 2nd Floor
Judge: Hon. Dolly M. Gee

1 Pursuant to ¶ 27 of the Order Preliminary Approving Settlement and
2 Providing for Notice (Doc. No. 103), Plaintiffs, by and through undersigned
3 counsel, respectfully submit this reply to address an objection that has been
4 received since the filing of Plaintiffs' opening papers on February 12, 2016.

5 **I. THE REACTION OF THE CLASS SUPPORTS APPROVAL OF**
6 **THE SETTLEMENT AND REQUESTED FEES**

7 The Claims Administrator has mailed out 33,404 mailed Notice of
8 Pendency and Settlement of Class Action ("Notices") and Proof of Claim and
9 Release ("Claim Forms") (collectively, "Notices and Claim Forms") that were
10 mailed by Strategic Claims Services ("SCS"), (dkt. # 108-1, ¶ 7). The deadline to
11 submit objections and request exclusions to the Settlement was postmarked no
12 later than February 26, 2016. As of March 3, 2016, Lead Counsel and the Claims
13 Administrator have received two exclusions and one purported objection.

14 Given these facts, the reaction of the Settlement Class supports final
15 approval and the requested fees. *See Petrovic v. AMOCO Oil Co.*, 200 F.3d 1140,
16 1152 (8th Cir. 1999) (approving settlement where "fewer than 4 percent of the
17 class members objected to the settlement"); *In re Mego Financial Corp. Sec.*
18 *Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (district court did not err in approving a
19 settlement where there was a handful of objectors and one opt-out in a 5,400
20 member class); *Stoetznner v. U.S. Steel Corp.*, 897 F.2d 115, 118-19 (3d Cir. 1990)
21 (Twenty-nine objections out of 281 class members "strongly favors settlement").

22 **II. THE SOLE OBJECTION SHOULD BE OVERRULED**

23 **1. Wanda Moore**

24 Wanda Moore (the "Objector") has filed an objection to the Settlement.
25 Supplemental Declaration of Josephine Bravata Concerning Mailing of the Notice
26 and Claim Form, Objections and Exclusions (the "Bravata Supp. Dec."), Ex. B.
27 The Court should disregard the Objection. First, the Objector would not be
28

1 entitled to a payment in the Settlement. Objector made three purchases of Deer
2 stock. She bought Deer stock on December 21, 2009, then sold all of it two days
3 later for a 10% profit. She bought Deer stock on January 27, 2010, and sold all of
4 it six days later. She then bought Deer stock on May 13, 2010, and sold it all
5 twelve days later. She thus sold all of her stock before the first corrective
6 disclosure on March 21, 2011. Second Amended Complaint, Dkt. 45, ¶31. Indeed,
7 Objector had an overall profit of \$413.04 from her Deer transactions. She may
8 have thus have benefited, albeit of course unwittingly, from the alleged fraud.
9 With Objector the only person submitting an objection, no Class Members with
10 Recognized Losses have any objection to the Settlement.

11 The Objection also fails on the merits. Objector states that the settlement
12 amount is “too low”.¹ Bravata Supp. Dec., Ex. B. Objector cites no facts, no law,
13 nor even any reason *why* the settlement amount is too low for this case. Courts
14 routinely disregard such conclusory objections. *Miller v. Ghirardelli Chocolate*
15 *Co.*, No. 12-CV-04936-LB, 2015 WL 758094, at *11 (N.D. Cal. Feb. 20, 2015).
16 And for good reason. “[T]he very essence of settlement is compromise.” *Officers*
17 *for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615,
18 624 (9th Cir. 1982). It is thus *always* possible to object that the settlement should
19 recover more money without providing any particulars.

20 While Lead Plaintiffs are sympathetic to Objector’s claim, and also wish
21 there were more money, the fact is that the Settlement is as much money as the
22 Class reasonably could expect. It is difficult to prove a securities fraud case
23 against an auditor. *See* Memorandum of Points and Authorities In Support of
24 Motion For Final Approval of Class Action Settlement and Plan of Allocation (the

25
26 ¹ The Objector also claims “I do not agree with the Settlement, any part of the
27 Settlement, or Lead Plaintiffs’ Counsel[‘s] motion for attorneys’ fees and I think
28 the court should not approve the settlement.” Bravata Supp. Dec., Ex. B.

1 “Appr. Br.”), Dkt. # 106, at 9-10. If Plaintiffs prove their case, Defendants are
2 only liable for their proportionate share of the damages. *Id.* at 12, 13-15.

3 But even if they won at trial, Lead Plaintiffs would still be far from
4 collecting any money. Defendants are a small audit firm and one of its partners.
5 Defendants’ only major asset is an insurance policy that diminishes dollar-for-
6 dollar as it pays Defendants’ attorneys fees. The face value of the policy is \$3.0
7 million, but by July 2015, only \$1.9 million remained. Defendants faced another
8 lawsuit by individual Deer investors, and GKM is sued for professional
9 negligence by the Trustee of another of its public company clients. The Settlement
10 nonetheless recovers \$1.425 million, or about 75% of the remaining insurance
11 policy. *Id.* at 12-13.

12 The Objector also ignores the obstacles Lead Plaintiffs have already
13 surmounted. Securities fraud actions, especially against auditors, are notoriously
14 difficult. Memorandum of Points and Authorities In Support of Motion For Award
15 of Attorneys’ Fees and Reimbursement of Expenses, and Awards to Lead
16 Plaintiffs (the “Fee Brief”), at 11-12. Class certification presents obstacles to
17 investors in smaller less well-known companies. *Id.* at 13. And because Plaintiffs’
18 Counsel has litigated this case on contingency, it has not been paid, and would not
19 be unless it was able to recover funds for the Class. This case has been ongoing
20 for 3 years, and counsel has risked 460.8 hours and \$79,762.41 litigating it. *Id.*

21 CONCLUSION

22 For all of the foregoing reasons, Lead Plaintiffs respectfully request that the
23 Court overrule the Objection, finally approve the Settlement and the Plan of
24 Allocation, award attorneys’ fees of 33 1/3% of the Settlement Fund, or \$475,000
25 and reimbursement of expenses of \$79,762.41, and award Lead Plaintiffs \$10,000
26 each.

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DATED: March 4, 2016

Respectfully submitted,

THE ROSEN LAW FIRM P.A.

/s/ Laurence M. Rosen
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CERTIFICATE OF SERVICE

I, Laurence M. Rosen, hereby declare under penalty of perjury as follows:
I am attorney with the Rosen Law Firm, P.A., with offices at 355 South Grand Avenue, Suite 2450, Los Angeles, CA, 90071. I am over the age of eighteen.

On March 4, 2016, I caused to be electronically filed the following **LEAD PLAINTIFFS’ REPLY IN FURTHER SUPPORT OF MOTIONS FOR: (1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION; AND (2) AN AWARD OF ATTORNEYS’ FEES AND REIMBURSEMENT OF EXPENSES** with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to counsel of record.

Executed on March 4, 2016.

/s/ Laurence M. Rosen