

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI, Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs, Civil Action No. 6:14-cv-06631-EAW-MJP

vs.

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

**DECLARATION OF PAUL J. SCARLATO IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND
PLAN OF ALLOCATION AND CLASS COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES, PAYMENT OF EXPENSES AND FOR SERVICE AWARDS**

I, PAUL J. SCARLATO, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am a member of the law firm of Rosca Scarlato LLC (“RS”), which serves as court-appointed Class Counsel for Class Representatives for the Settlement Class, Yao-Yi Liu, Tung-Hung Hsieh and Chiu-Pao Tsai (“Class Representatives”).¹ Prior to that, I was a shareholder in Goldman, Scarlato & Penny, P.C., one of Plaintiffs’ Counsel. I have been actively involved throughout the prosecution and resolution of the Action, am familiar with its proceedings, and have personal knowledge of the matters set forth below based upon my close supervision of the material aspects of the Action.

2. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, I submit this declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation, as well as Class Counsel’s Motion for an Award of Attorneys’ Fees, Payment of Expenses, and For Service Awards. Both motions have the full support of the Class Representatives. *See* Declarations of Yao-Yi Liu, Tung-Hung Hsieh and Chiu-Pao Tsai dated December 9, 2022, attached as Exhibits 1-3.² To date, there have been no objections to any aspect of the Settlement.

I. PRELIMINARY STATEMENT

3. Class Representatives have succeeded in obtaining a favorable recovery for the Settlement Class in the amount of \$4,350,000 in cash. As set forth in the Stipulation, in exchange for this payment, the proposed Settlement resolves all claims asserted in the Action by Class

¹ All capitalized terms not otherwise defined below have the same meaning as in the Stipulation and Agreement of Settlement, dated as of August 12, 2022 (the “Stipulation”, ECF 239-1).

² Citations to “Exhibit” or “Ex. ___” refer to exhibits to this Declaration. For clarity, exhibits that themselves have attached exhibits will be referenced as “Ex. __-__.” The first numerical reference is to the designation of the entire exhibit and the second alphabetical reference is to the exhibit designation within the exhibit itself.

Representatives and the Settlement Class and related claims against the Released Defendant Parties. ECF 239-1.

4. This case was vigorously litigated over the course of more than eight years. The Settlement was achieved only after Plaintiffs' Counsel, *inter alia*, and as detailed below: (i) conducted a wide-ranging investigation concerning the Bio Profit Scheme and Wilmington Trust's³ role in connection to the Bio Profit Funds; (ii) prepared and filed two detailed amended class action complaints; (iii) researched and drafted an opposition to Defendants' comprehensive motion to dismiss the amended complaint, after which the Court entered an Order partially granting and partially denying the motion; (iv) engaged in extensive and thorough fact discovery, including deposing eight Wilmington witnesses and the Receiver, defending the depositions of the three Class Representatives, and analyzing over a million pages of documents produced by Defendants and the Receiver; (v) filed numerous contested motions to compel Wilmington to produce documents; (vi) made two trips to Taiwan, the first to meet with the Class Representatives and other investors in the Bio Profit Scheme and witnesses with knowledge, to debrief them and gather documents and other crucial facts relating to filing the Action, and the second later trip, to meet and debrief other witnesses with knowledge, and to meet with hundreds of additional investors in the Bio Profit Funds in connection with a possible group action in the event that Wilmington's numerous threatened challenges to class certification were successful; (vii) retained and worked with professionals with expertise in (a) a bank's compliance obligations pursuant to the Bank Secrecy Act ("BSA") and Anti-Money Laundering ("AML") rules, (b) the Corporate Trust duties and obligations of a bank, and (c) accounting and damages. At the time the Settlement was reached, Class Counsel had a thorough understanding of the strengths and weaknesses of the Action.

³ Defendants Wilmington Trust Company and Wilmington Trust National Association will be referred to herein as "Wilmington" or "Defendants."

5. As discussed in detail below, maximum aggregate damages in the Action depended upon which claims Plaintiffs were able to establish. Plaintiffs' damages expert's preliminary estimate of out-of-pocket losses was \$92.4 million. The amount of the out-of-pocket losses that would be recoverable depended in large part on, *when*, during the course of the Bio Profit Scheme, Plaintiffs would be able to establish Wilmington's actual knowledge of fraud or breach of fiduciary duty; a crucial element of Plaintiffs' aiding and abetting claims. Knowledge, substantial assistance, causation and damages were expected to be especially contested issues in this case, and there was a substantial risk that Plaintiffs would not have succeeded at establishing actual knowledge until very late in the Bio Profit Scheme, if at all, meaning the percentage of estimated out-of-pocket losses Plaintiffs would be able to recover would be very low.

6. The \$4,350,000 Settlement, therefore, represents a recovery of approximately 4.71% of the maximum provable out-of-pocket losses — a favorable recovery that is well within the range of reasonableness, particularly in light of the countervailing legal and factual arguments tenaciously pursued by Defendants and the attendant litigation risks. *See* Section III below, and the accompanying Memorandum in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation ("Settlement Brief").

7. In deciding to settle, Class Representatives and Class Counsel took into consideration the significant risks associated with advancing the claims alleged in the operative complaint, the risks of certifying a class, and the complexity of the then-upcoming proceedings, including *Daubert* motions directed at experts, summary judgment motions, and trial. The Settlement was achieved in the face of staunch opposition by Defendants who would have, had the Settlement not been reached, continued to raise serious challenges to each of the elements of

Plaintiffs' claims. The Settlement eliminates these risks while providing a guaranteed recovery to the Settlement Class in a timely manner.

8. In addition to seeking approval of the Settlement, Class Representatives also seek approval of the proposed Plan of Allocation for distributing the proceeds of the Settlement. As discussed in further detail below, the proposed Plan of Allocation treats all members of the Settlement Class the same, and will distribute the Net Settlement Fund to each Authorized Claimant who submit Claim Forms that are approved for payment pro rata based on their out-of-pocket loss.

9. With respect to the Fee and Expense Application, as discussed in Class Counsel's Memorandum in Support of Plaintiffs' Motion for an Award of Attorneys' Fees, Payment of Expenses and For Service Awards ("Fee Brief"), the requested fee of 30% of the Settlement Fund would be fair to the Settlement Class, and warrants the Court's approval. This fee request is within the range of fee percentages frequently awarded in this type of action and would result in a substantial negative multiplier on Plaintiffs' Counsel's lodestar to date. Class Counsel also seeks Litigation Expenses totaling \$588,493.18 and an award to the Class Representatives for their extraordinary service in this case, in the amount of \$96,000 (\$32,000 each) which, when combined, are less than the cap on expenses of \$700,000 provided for in the Notice.

II. RELEVANT PROCEDURAL HISTORY

A. Commencement of the Action

10. Plaintiff Class Representatives were investors in certain securities offerings offered and sold by California-based Velocity Investment Group, Inc. ("Velocity"), known commonly as the "Bio Profit Funds." Velocity, managed by non-party Michael Wang, offered and sold unregistered promissory notes in the Bio Profit Funds consisting of BPS I, BPS II, BPS III, BPS V, and Velocity Valley & Grand. The Plaintiffs allege that Bio Profit was in fact a Ponzi scheme

(the “Bio Profit Scheme”) whereby Bio Profit Fund investors were purportedly investing in real estate loans, when all or some of the new investors’ investments in at least one of the Bio Profit Funds were being used to make “interest payments” and “redemption payments” to existing investors.

11. Plaintiffs filed their class action complaint on November 11, 2014 against the Defendants, alleging that Wilmington served as escrow agent and custodian for each of the BPS Funds. (ECF 1). Plaintiffs’ complaint alleged that Wilmington assisted the Bio Profit Scheme knowingly and asserted claims for: 1) aiding and abetting fraud; 2) aiding and abetting conversion; 3) aiding and abetting breach of fiduciary duty; breach of fiduciary duty; 4) gross negligence; and 5) breach of fiduciary duty. *Id.*

12. Plaintiffs’ initial 51-page complaint was the product of extensive investigation including the facts gathered from meeting with witnesses with knowledge and the Class Representatives during Plaintiffs’ Counsels’ initial trip to Taiwan, and a review and analysis of regulatory filings made by the Bio Profit Funds with the United States Securities and Exchange Commission (“SEC”), the filings in the proceedings brought by the SEC against certain of the Bio Profit Scheme perpetrators in the matter of *SEC v. Wang, et al.*, No. 13-07553-JAK (C.D. Cal. filed Oct. 15, 2013) (the “SEC Action”), and a review of other available documents. Plaintiffs’ complaint identified examples of instances where the Bio Profit Fund investors’ money was allegedly commingled with that of other Bio Profit Fund investors in the Wilmington custody accounts, and other examples of instances where new investor money was allegedly used to pay interest payments to existing investors out of the Wilmington accounts.

13. Defendants moved to dismiss Plaintiffs’ complaint asserting that Plaintiffs failed to allege that Wilmington had actual knowledge of the Bio Profit Scheme, that Plaintiffs failed to

allege that Wilmington substantially assisted the wrongdoing, that Plaintiffs' aiding and abetting conversion claim was not actionable, that Plaintiffs' complaint failed to comply with fed. R. Civ. P. 9(b), that Plaintiffs' gross negligence claim fails, and that Plaintiffs' breach of fiduciary duty claim should be dismissed. *See* ECF 15.

14. In response to Defendants' motion to dismiss, Plaintiffs filed a First Amended Complaint. *See* ECF 16.

B. Plaintiffs' First Amended Complaint

15. Plaintiffs' 73-page First Amended Complaint ("Complaint") was again the product of the facts gathered during Plaintiffs' Counsels' trip to Taiwan, and an analysis of regulatory filings made by the Bio Profit Funds with the SEC, the filings in the SEC Action, and an extensive review and analysis of other documents, including documents obtained through discovery in another action brought by a Bio Profit investor against Bio Profit's accountants. Plaintiffs' Complaint set forth numerous examples of instances where the Bio Profit Fund investors' money was allegedly commingled with that of other Bio Profit Fund investors in the Wilmington custody accounts, and other examples of instances where new investor money was allegedly used to pay interest payments to existing investors out of the Wilmington accounts. Plaintiffs' Counsel's preparation of the thorough Complaint required many meetings to discuss strategy and a high degree of partner and senior associate-level involvement, given the complexities of the case, and involved a complex flow of funds analysis to track payments in and out of the various Bio Profit Fund accounts.

16. The Complaint substantially expanded on Plaintiffs' initial complaint and contained multiple pages of examples of alleged comingling in Bio Profit's Wilmington accounts, identifying the date of the transactions, the specific dollar amount, and account involved. *See e.g.* ECF 16, pp. 23-25, and contained multiple pages of examples of instances where new investor

money was allegedly used to pay interest payments to existing investors out of the Wilmington accounts. *Id.* pp. 27-29. In addition, it attached nine documents as exhibits including Wilmington account documents, an example of a Bio Profit Fund escrow agreement and numerous wire transfer requests between representatives of Bio Profit's manager, Velocity Investment Group and Wilmington. *Id.*

C. Wilmington's Motion to Dismiss

17. On June 19, 2019, Wilmington moved to dismiss the Complaint filing a 30-page motion to dismiss, along with nine exhibits. *See* ECF 19. In addition to the arguments raised in the first motion, Wilmington also argued that Delaware substantive law applies to Plaintiffs' claims, and that many of the claims were barred by Delaware's three-year statute of limitations. *Id.*

18. Plaintiffs filed a 30-page opposition to Wilmington's motion to dismiss and refuted each of Defendants' arguments. ECF 24.

19. Thereafter, the parties filed multiple reply and sur-reply briefs responding to each other's points. *See* ECF 19, 24, 26, 28, 31, 32-36, and 38-40.

20. On January 4, 2016, the Court heard oral argument on Defendants' motion. ECF 37.

21. Following oral argument, the parties submitted a number of communications to the Court clarifying and advancing their positions, submitted supplemental authority, and responded to each other's arguments. On September 23, 2016, the Court issued a Text Order acknowledging and accepting those submissions, and noted that "[w]hile the Court does not encourage post-argument submissions such as this, the Court also recognizes the importance of the case to both parties and the desire on the part of both parties to advance their arguments and identify relevant authority." ECF 41.

22. Altogether (including the supplemental authority letters and post argument submissions), there was 104 pages of briefing on the motion to dismiss, far more than is typical in most class action cases, demonstrating the complexity of the case and the vigor of the litigation.

D. The Court's Decision and Order

23. On September 27, 2017, the Court issued a 42-page Decision and Order deciding Defendants' motion to dismiss. ECF 44. The Court's Order carefully analyzed Plaintiffs' allegations and legal claims and Defendants' defenses, and properly considered each of the exhibits attached to Defendants' motion and Plaintiffs' opposition. *Id.* Addressing the legal arguments, the Court first determined that Delaware law applied. *Id.* at 13-14. However, the Court determined that it did not need to resolve Defendants' statute of limitations defense at the motion to dismiss stage because Plaintiffs sufficiently raised defenses to the application of the statute of limitations (the continuing wrong doctrine, the discovery rule, and equitable tolling) that could not be resolved without discovery. *Id.* at 14-17. Finally, the Court examined each of Plaintiffs' legal claims in detail and dismissed Plaintiffs' claim for aiding and abetting fraud as Plaintiffs' allegations did not surmount the heightened pleading requirement for actual knowledge of fraudulent conduct. *Id.* at 18-27. The Court dismissed Plaintiffs' claim for aiding and abetting conversion for similar reasons. *Id.* at 27-28. However, the Court sustained Plaintiffs' claims for aiding and abetting a breach of fiduciary duty based on Plaintiffs' allegations that Wilmington was aware that the Bio Profit managers' fiduciary duties to their investors, and the breach thereof through Plaintiffs allegations of commingling and diversion of investor funds from their respective fiduciary BPS accounts. *Id.* at 28-35. Similarly, the Court sustained Plaintiffs' claim for gross negligence (*Id.* at 35-37), and breach of fiduciary duty, crediting Plaintiffs' allegations that

Defendants were sufficiently aware of diversion and commingling of trust account investments. *Id.* at 37-42.

24. Wilmington filed an Answer on October 23, 2017, denying all allegations asserted in the Complaint (ECF 46), filed an Amended Answer on November 13, 2017 (ECF 50), and filed a Second Amended Answer on February 16, 2018. ECF 61.

E. Discovery

25. This Action involved extensive discovery. From the beginning, discovery was hard fought. The Parties attempted to work collaboratively to agree upon a case management schedule. While the Parties were able to agree on a schedule, they were not able to agree on the scope of discovery and submitted competing positions in their December 17, 2017 Amended Joint Proposed Discovery Plan. ECF 53.

26. The parties then engaged in extensive and protracted discovery which was hard fought and hotly contested. Plaintiffs prepared and served detailed discovery requests on Defendants, including Requests for Production of Documents, Interrogatories, and Requests for Admission, and met and conferred with Defense Counsel on numerous occasions concerning the discovery.

27. In order to obtain the requested discovery, the parties filed numerous contested motions requiring extensive briefing and judicial intervention, including: Plaintiffs' motion to compel Wilmington to produce documents regarding its other business dealings with the Bio Profit Scheme perpetrators, documents it produced to the SEC, and documents relating to all transactions connected to the Bio Profit accounts (ECF 74-75, 83-84); Defendants' motion for a protective order relating to Plaintiffs' notice of deposition pursuant to Fed. R. Civ. P. 30(b)(6) { TA \l "Fed. R. Civ. P. 30" \s "Fed. R. Civ. P. 30" \c 2 } } TA \s "Fed. R. Civ. P. 30" } (ECF 85); Defendants' motion to compel additional documents from Plaintiffs (ECF 86-89); Plaintiffs' motion to compel

documents from additional custodians (ECF 104-06); Plaintiffs' motion to compel Wilmington's document retention policies and document preservation materials (ECF 122-24); Plaintiffs' motion to compel documents related to Wilmington's policies and procedures withheld pursuant to the Suspicious Activity Report ("SAR") privilege (ECF 145-47); Plaintiffs' motion to compel documents on behalf of other custodians, and for leave to take more than ten depositions (ECF 204-07); Wilmington's cross motion for a protective order (ECF 213); and Plaintiffs' motion to compel additional compliance-related documents (ECF 220-22).

28. The parties exchanged hundreds of thousands of pages of documents. Wilmington produced voluminous documents in response to Plaintiffs' document requests, including documents relating to its interaction with investors in and perpetrators of the Bio Profit Scheme, account statements and records for each of the Bio Profit Fund's accounts, records regarding banking and custodial services it provided to Velocity and Bio Profit Funds, records regarding its due diligence activities, records regarding anti-money laundering and/or "know your customer" inquiries about Bio Profit/Velocity and/or their investment programs, records regarding Wilmington's monitoring of the Bio Profit/Velocity accounts, its policies, processes, and procedures for trust services, escrow accounts, account set-up practices and authorization procedures, and fraud monitoring.

29. The Class Representatives document collection was far reaching and required them to produced thousands of pages of documents in response to Defendants' discovery requests, including documents related to their Bio Profit investments, documents related to all of their other investments, documents relating to their insurance policies, documents related to their real estate ownership, and their personal banking records, which required the Class Representatives to take time away from work and visit their banks in person during business hours to retrieve such records.

The Class Representatives document gathering process was time consuming and extensive. Plaintiffs' Counsel reviewed the large volume of discovery of the Class Representatives to prepare for production pursuant to Defendants' discovery requests.

30. In addition to the documents produced by Defendants, the parties received non-party discovery consisting of several hundred thousand pages produced by the court-appointed Receiver in the action captioned *Securities and Exchange Commission v. Yin Nan "Michael" Wang, et al.*, Case No. CV 13-7553 (C.D. Cal. Oct. 15, 2013) (the "SEC Action"). Plaintiffs' Counsel first traveled to San Diego to get an understanding of the nature and scope of the documents in the possession of the Receiver, and examined those documents in a storage facility rented by the Receiver. Plaintiffs' Counsel made a determination to copy all of the documents, after which they were loaded electronically onto Plaintiffs' document management platform, as explained below.

31. Plaintiffs' Counsel conducted an efficient review of the documents produced in discovery. To facilitate an economical and time-efficient document review process, all of the documents produced were placed in an electronic "e-discovery" database, primarily using a platform called Relativity to organize the data.

32. A small team of experienced attorneys reviewed and analyzed the documents. The review occurred over many months. The attorneys conducting the review were integral to the litigation team and focused on reviewing Defendants' and third-party document productions for the purpose of preparing for class certification, fact depositions, expert reports, and depositions.

33. To efficiently focus on the most relevant documents, the attorneys – who had extensive experience with e-discovery – used the document platform’s software tools to analyze and search the data. The team used a variety of methods to conduct targeted searches. The attorneys culled documents based on legal issues, custodians, and relevant time periods, in order to narrow the scope of the review universe.

34. The document review attorneys did not only review documents. They also participated in frequent meetings with more senior attorneys to discuss important documents, deposition preparation efforts, and case strategy. The document review attorneys also: (i) assisted in selecting relevant documents for expert review; and (ii) assisted in the preparation of deposition binders.

35. The parties also took many depositions. For example, after the review of documents described above, Plaintiffs’ Counsel took the depositions of eight Wilmington fact witnesses. Those depositions were taken in Wilmington, Delaware and Buffalo, New York, and consisted of the key persons at Wilmington who interacted with the Bio Profit Fund representatives, and Wilmington compliance personnel. Plaintiffs’ Counsel and Defendants’ Counsel also traveled to San Diego to depose the Receiver.

36. In addition, Wilmington noticed the depositions of the three Class Representatives, who are residents of Taiwan, for depositions in Buffalo, New York. That required the Class Representatives to take a week off from work and travel to Buffalo several days in advance of the depositions to meet with Plaintiffs’ Counsel to prepare. The Class Representatives’ trip from Taiwan to Buffalo alone took in excess of 24 hours of flight, one way. Plaintiffs’ Counsel had lengthy sessions with the Class Representatives, with the assistance of an interpreter, and reviewed

documents in preparation for their depositions. The Class Representatives were each deposed by Wilmington, which depositions occurred over the course of three days.

37. Collectively, the depositions provided substantial evidence and insight into events at issue in the Action. While Class Counsel believe that the deposition testimony supported many of their allegations, they also revealed that Defendants would have arguments in response regarding Defendants' knowledge of the Bio Profit Scheme.

38. The Parties were in the process of arranging and preparing for additional fact depositions and the exchange of expert reports at the time they reached the Settlement.

F. Mediations

39. The parties made multiple attempts to compromise the Action with the assistance of experienced mediators.

40. The first mediation session was an in-person session on November 15, 2017, in Rochester, New York, before A. Vincent Buzard, Esquire, pursuant to the Court's Order and its Alternative Dispute Resolution Plan. ECF 43. Prior to that mediation, the parties prepared detailed position statements identifying the strengths and addressing potential weaknesses in their cases and submitted those statements to the mediator. The Class Representatives participated in the mediation session remotely, which was during the middle of the night in Taiwan. In addition, another Bio Profit investor, Patrick Chang, who temporarily resided in San Francisco, California and was acquainted with the Class Representatives, flew to Rochester to attend the mediation in person. The first mediation did not result in a settlement and the parties continued the discovery efforts in earnest.

41. As discovery was approaching completion, the parties participated in an all-day arm's length mediation in New York City on February 13, 2020 before Michael D. Young of JAMS. Prior to the February 2020 mediation, the parties again prepared detailed mediation

statements identifying the strengths and addressing potential weaknesses in their respective cases, supported by documents, testimony and other evidence uncovered through discovery conducted subsequently to the prior mediation, exchanged those statements and exhibits with each other, and submitted them to the mediator. Again, the Class Representatives participated in mediation session remotely, which was during the middle of the night in Taiwan. Again, the parties were unable to achieve a negotiated resolution on that date and the parties then resumed their respective discovery activities.

42. The Court then issued an Order on March 23, 2021, which directed the parties to participate in a settlement conference supervised by the Hon. Mark W. Pederson. ECF 199. The parties participated in that conference on April 30, 2021 (ECF 203) but did not resolve the Action at that time and again resumed their discovery activities.

43. The parties then re-engaged Mr. Young in late 2021 and resumed the lengthy settlement dialog. Based upon the parties' extensive discovery activities, thorough investigation, and careful evaluation of the available facts and governing law relating to the pleaded matters, the multiple mediation sessions, the additional negotiations supervised by Judge Pederson, followed by the subsequent negotiations facilitated by Mr. Young, the parties achieved a negotiated compromise and settled the Action in principle, pursuant to the memorialized provisions of the Stipulation.

G. Expert Witnesses

44. Plaintiffs' Counsel worked with five experts during the course of fact discovery and in preparation for the exchange of expert reports: (i) Mr. Miller, a Corporate Trust Specialist, to opine on the standard of care, and Wilmington's handling of the Bio Profit custodial/trust

accounts⁴; (ii) Ms. Knauer, Ms. Ghiglieri and Mr. Delston, experts on a bank's compliance duties, typical practices, and obligations pursuant to the Bank Secrecy Act ("BSA") and Anti-Money Laundering ("AML") regulations as they relate to the conduct at issue; and (iii) Mr. Regan, a forensic accountant, to opine on accounting matters and damages. At the time the Parties agreed to settle the Action, Mr. Miller and Mr. Regan were preparing expert reports on the merits.

45. Each of the experts provided valuable assistance to Plaintiffs' Counsel and were key with respect to framing arguments and rebuttals to Defendants' challenges.

III. RISKS FACED BY PLAINTIFFS IN THE ACTION

46. Based on publicly available information and documents obtained through Plaintiffs' Counsels' investigation and the extensive fact discovery and work by the experts conducted in the Action, Class Counsel believes that it had adduced substantial evidence to support Plaintiffs' and the Settlement Class's claims and was prepared to proceed to trial. However, Class Counsel also recognized that Class Representatives and the Settlement Class faced significant risks and defenses in continuing to litigate. If any of the risks materialized, Class Representatives' and the Settlement Class's potential recovery could be seriously jeopardized. These risks were made apparent through document discovery, depositions, and Defendants' expected challenges to class certification, as Defendants frequently raised.⁵ The Class Representatives and Class Counsel

⁴ Defendants denied Plaintiffs' allegations that the accounts at issue were trust accounts.

⁵ The expected challenges to class certification provided additional impetus to Class Counsel's second trip to Taiwan, during which, in addition to conducting additional investigation and meeting with witnesses with direct knowledge of key aspects of the fraud, Counsel met with hundreds of BioProfit investors, believed to represent the vast majority of the class members, to prepare for the eventuality that class certification may not be accomplished and the case would have to continue on as a group case, or in the alternative provide Plaintiffs with negotiating leverage during settlement negotiations, in response to expected arguments by Defendants that the failure to certify the case would shrink its size to only three plaintiffs.

carefully considered these risks during the months and weeks leading up to the Settlement and throughout the settlement discussions with Defendants.

47. In agreeing to settle, Class Representatives and Class Counsel weighed, among other things, the substantial certain cash benefit to Settlement Class Members against: (i) the uncertainty of certifying a class; (ii) the uncertainties of surviving Defendants' expected summary judgment motion, which could result in the termination of the Action, no recovery for the Settlement Class, and a lengthy appellate process; (iii) the difficulties and challenges involved in proving actual knowledge, gross negligence, breach of fiduciary duty, loss causation, and damages at trial; (iv) the fact that, even if Class Representatives prevailed at summary judgment and trial, any monetary recovery could have been less than the Settlement Amount; and (v) the delays that would follow even a favorable jury finding, including a contested claims process and appeals to the Second Circuit and beyond.

A. Risks at Class Certification

48. At the time the Settlement was reached, the Class Representatives were preparing to file their motion to certify the class and accompanying expert reports. However, Class Counsel understood that Defendants would have tenaciously contested the Class Representatives efforts to certify the class, by arguing, that some of the investors invested in the programs under different circumstances.

49. Class Counsel believe they would overcome that argument, and would assert that all of the Bio Profit Fund investors were similarly situated in that all investors were offered discounts on future investments for introducing others to the investment. In fact, only one of the Class Representatives obtained a discount on a future investment for introducing a friend. Another did not take the discount, and passed it on the co-worker he introduced, and the third did not

introduce anyone. Notwithstanding, Class Counsel recognized the risk that a class might not be certified.

B. Risks in Proving Liability and Damages

50. Beyond class certification challenges, there were significant risks that: (i) the Court would find that Class Representatives failed to establish actual knowledge of the Bio Profit Scheme perpetrators' breach of fiduciary duty, or that Wilmington acted with gross negligence or whether Wilmington owed Class Members any duty, let alone breached such duty to the Class; (ii) Defendants would ultimately succeed in their *Daubert* challenges to the Class Representatives' analyses; or (iii)—if the Court were to permit the claims to proceed to trial—that a jury (or appeals court) would rule against Class Representatives on liability and/or damages grounds. While Class Representatives and Class Counsel believe they would have advanced strong arguments and evidence on the merits, they nonetheless acknowledge that Defendants' arguments and counter evidence posed credible threats to the Class Representatives ability to ultimately succeed.

51. For example, Defendants were expected to advance a legal argument developed during the depositions of the Class Representatives that an investment in Bio Profit was the purchase of a note, not a purchase of a security, and because of the nature of that relationship, the Bio Profit Scheme perpetrators did not owe a duty the investors. Thus, Wilmington could not have aided and abetted a breach of fiduciary duty. Moreover, Defendants would certainly have asserted that Wilmington's conduct in handling the accounts at issue was not grossly negligent, and finally, because the accounts at issue were not trust accounts, Wilmington did not owe a fiduciary duty to the Class Members, and could not be liable for a breach of a duty that did not exist. While Class Representatives believe they would overcome those arguments, they recognize a risk that they might not do so. Finally, the Class Representatives recognize the risk, based on the discovery, that even if they prevailed on their claims, the Court or a jury might find that Wilmington did not

acquire actual knowledge of the Bio Profit Scheme perpetrators' breach of fiduciary duty until very late in the Scheme, and thus Wilmington could not be held liable before that date, thus significantly diminishing the potential recovery for the Class.

52. Even beyond these substantial challenges, Defendants would hold Class Representatives to their burden of proof on each of the elements of their claims, and establishing the Class's claims would require the jury to make complicated assessments of credibility in several complex and hotly contested factual disputes.

C. Risks Attendant at Trial

53. In addition to the specific liability risks discussed above and the typical uncertainties attendant to placing complex issues before a jury, a trial of this case presented its own unique hurdles. Given the complexity of the issues involved in this case, including the banking regulations and Corporate Trust and BSA/AML issues, persuasively presenting the case to a jury would have been challenging.

54. More broadly, in presenting the claims and the documentary and deposition evidence, Class Representatives would rely heavily on witnesses aligned with the Defendants and experts who would certainly have been countered by highly credible experts presented by Defendants.

55. Further, at the time the Settlement was reached, the Parties had not yet filed *Daubert* motions, where Defendants would undoubtedly seek to exclude all or most of the testimony that Class Representatives intended to offer through their experts. Had Defendants prevailed in excluding any of this testimony, the presentation of many aspects of Class Representatives' case would have been decimated.

56. Additionally, the fact that the Class Representatives – arguably Plaintiffs' most important witnesses in this case – needed a translator at least in part during their testimony inserted

an additional element of uncertainty as to their testimony at trial and their ability to fully convey what they had to say to the jury.

57. Lastly, even if Class Representatives were successful in obtaining a jury verdict on all or part of their claims, it was a foregone certainty that a jury verdict would have been just the beginning of a long and arduous post-trial and appellate process. Given the novelty of the issues concerning in the Action, an appellate process, with the possibility of reversal, presented a very real hurdle to obtaining a recovery for the class.

IV. SETTLEMENT NEGOTIATIONS

58. The settlement discussions were at all times arm's-length and under the purview of experienced mediators. Class Representatives do not believe that a better outcome could have been secured through a negotiated settlement.

59. As discussed above, the Parties participated in three lengthy mediations first with Mr. Buzard, then Mr. Young and then Judge Pederson. In advance of each of the mediations, the Parties prepared extensive briefs accompanied by substantial exhibits. The Parties extensively discussed their respective views regarding liability, class certification, and damages with the Mediators. However, despite those experienced mediators' and the parties' and their counsel's best efforts, the sessions did not result in an agreement.

60. The Parties continued to discuss a potential settlement with the assistance of Mr. Young over the course of the next several months as discovery continued. In late December 2021, the Mediator recommended that the Parties agree to settle the case for \$4,350,000. The Parties accepted the Mediator's proposal, subject to the negotiation of a formal settlement agreement. After reaching an agreement on the settlement amount, the Parties worked to draft the Stipulation.

61. The Parties subsequently negotiated the Stipulation, which sets forth the final terms and conditions of the Settlement, including, among other things, a release of all claims asserted

against Defendants in the Action and related claims. Defendants have agreed to release all Released Defendants' Claims, concerning the prosecution and settlement of the Action, against Class Representatives and the other members of the Settlement Class. Once the Settlement reaches its Effective Date, the Released Plaintiff's Claims against the Released Defendant Parties and the Released Defendants' Claims against Class Representatives and the Settlement Class will be forever dismissed with prejudice.

62. The Parties spent significant time drafting and conferring on, and ultimately memorializing, the terms of the Settlement in the Stipulation, and its associated exhibits, which was filed with the Court on August 12, 2022 (ECF 239), along with Plaintiffs' unopposed motion and supporting memorandum of law seeking preliminary approval of the proposed Settlement (ECF Nos. 238).

V. CLASS REPRESENTATIVES' COMPLIANCE WITH THE PRELIMINARY APPROVAL ORDER AND THE REACTION OF THE SETTLEMENT CLASS

63. On October 11, 2022, the Court granted Plaintiffs' unopposed motion for preliminary approval of the Settlement (the "Preliminary Approval Order"). ECF 240. Pursuant to the Preliminary Approval Order, the Court: (i) preliminarily approved the Settlement; (ii) approved the forms and manner of notice to the Settlement Class; and (iii) preliminarily certified, for Settlement purposes, the Settlement Class and appointed Plaintiffs Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai as Class Representatives and Rosca Scarlato, LLC as Class Counsel for the Settlement Class. *Id.*

64. Pursuant to the Preliminary Approval Order, the Court appointed Strategic Claims Services ("SCS") as the Claims Administrator and instructed SCS to disseminate copies of the Notice and Proof of Claim Form ("Notice") and to publish the Summary Notice of Pendency of

Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses "Summary Notice").

65. The Notice, attached as Exhibit A to the Declaration of Josephine Bravata Concerning (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion and Objections Received to Date, dated December 11, 2023 (the "Mailing Declaration", Ex. 4), provides potential Settlement Class Members with information about the terms of the Settlement and, among other things: their right to opt-out of the Settlement Class; their right to object to any aspect of the Settlement, the Plan of Allocation, or the Fee and Expense Application; and the manner for submitting a Claim Form to be eligible for a payment from the net proceeds of the Settlement. The Notice also informs Settlement Class Members of Class Counsel's intention to apply for an award of attorneys' fees of no more than 30% of the Settlement Fund, for payment of litigation expenses in an amount not to exceed \$700,000, and for Service Awards to the Class Representatives not to exceed \$96,000 in the aggregate.

66. As detailed in the Mailing Declaration, on November 10, 2022, SCS mailed the Notice in Chinese to brokers and nominees to mail to their clients. The Claim Form was personalized with the Settlement Class Member's name and address, the amount invested, and the amount received in return based on information received from the Bio Profit Receiver. A copy of the Notice in Chinese is attached as Exhibit B to the Mailing Declaration. Ex. 4 at ¶¶3-4. In addition, SCS received email addresses from the Nominees on November 11, 2022 for most of the Members of the Settlement Class which were verified through a program called BriteVerify. Emails were sent with the personalized information on November 16, 2022. *Id.*

67. On November 23, 2022, Nominees submitted additional Settlement Class Member's names addresses and email addresses, and SCS promptly mailed Notices in Chinese and emailed notifications to those Settlement Class Members. *Id.* at ¶5.

68. On November 10, 2022, SCS caused the Summary Notice to be published in Chinese via *Globe Newswire* for dissemination across the internet. *Id.* at ¶6 and Exhibit C attached thereto.

69. SCS also maintains and posts information regarding the Settlement on its website, www.StrategicClaims.net/bioprofit/, to provide Settlement Class Members with information, including downloadable copies of the Notice in English and Chinese and important documents such as the Stipulation and Preliminary Approval Order. *Id.* at ¶9.

70. The Notice informed Settlement Class Members that in order to qualify for a payment from the Net Settlement Fund, a Claim Form must be timely filed either online at www.strategicclaims.net/bioprofit/ or by mail, with a postmark of no later than January 4, 2023. That date was extended to February 6, 2023, when the Court granted the Parties Request for Extension of Time. ECF 242. To date, SCS has received 787 claims. See Mailing Declaration, Ex. 4 ¶12. Additional Claim Forms will be submitted as many filers submit claims right at the deadline. SCS is currently processing the Claim Forms received and will provide additional information regarding the claims submitted in its supplemental declaration, which will be filed with the Court after the exclusion deadline has passed.

71. Pursuant to the terms of the Preliminary Approval Order, the deadline for Settlement Class Members to submit objections to the Settlement, the Plan of Allocation, or the Fee and Expense Application was December 21, 2022, and the deadline to request exclusion from the Settlement Class was the same. That date was extended to January 23, 2023, when the Court

granted the Parties Request for Extension of Time. ECF 242. To date, no objections to the Settlement or requests for exclusion from the Settlement Class have been received and the Claims Administrator. *Id.* at ¶¶10-11.

72. Class Counsel will respond to any future objections and exclusion requests and report additional claim information in its reply papers, which are due February 6, 2023.

VI. PLAN OF ALLOCATION

73. As provided in the Notice, after the deduction of Court-awarded attorneys' fees and expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court, the balance of the Settlement Fund (the "Net Settlement Fund") will be distributed to eligible claimants by the Claims Administrator according to the plan of allocation approved by the Court (the "Plan of Allocation" or "Plan").

74. The proposed Plan of Allocation, which was set forth in full in the Notice (ex. 4-A), is designed to achieve an equitable and rational distribution of the Net Settlement Fund. The Plan treats all Settlement Class Members equitably. All Settlement Class Members that show a Recognized Claim as a result of the Bio Profit Scheme, and who submit timely, valid Claim Forms, will receive their *pro rata* share of the Net Settlement Fund. Notice at ¶¶54-63. The Plan focuses on out-of-pocket losses, and the Recognized Claim is calculated based on the amount that the Settlement Class Member paid for their BPS Fund investment less any amounts received in return as either payment of interest, or return of principal. ¶58. The Plan of Allocation provides for distribution of the Net Settlement Fund among Authorized Claimants on a *pro rata* basis based on their "Recognized Loss Amounts," calculated according to the Plan's formula. Class Counsel believes that the Plan provides a fair and reasonable method to equitably distribute the Net Settlement Fund among Authorized Claimants.

75. The Court-approved Claims Administrator, under Class Counsels' direction, will determine the Recognized Loss Amounts either based on the amount in the populated, personalized Claim Form sent to Settlement Class Members based on information obtained from the Receiver, or will calculate claimants' Recognized Loss Amounts using the transactional information provided in their Claim Forms. Claims may be submitted to the Claims Administrator through the mail, online using the case webpage or via email. The Class Representatives' Recognized Loss Amounts will be determined in the same manner.

76. After the Effective Date of the Settlement, in accordance with the terms of the Stipulation, the Plan of Allocation, any such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund will be distributed to Authorized Claimants. After the distribution, if there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of the distribution, the Claims Administrator will, if feasible and economical after payment of any outstanding Notice and Administration Expenses, and Taxes redistribute the balance among Authorized Claimants who have cashed their checks in an equitable and economic fashion. There may be multiple re-distributions. Once it is no longer economical to make further distributions, any balance that still remains in the Net Settlement Fund after re-distribution(s) and after payment of any outstanding Notice and Administration Expenses, and Taxes, if any, will be contributed to a non-profit, non-sectarian organization(s) agreed to by the Parties and approved by the Court.

77. To date, there have been no objections to the proposed Plan of Allocation.

78. In sum, the proposed Plan of Allocation was designed to fairly and rationally allocate the Net Settlement Fund among Authorized Claimants. Accordingly, Class Counsel

respectfully submits that the proposed Plan of Allocation is fair, reasonable, and adequate and should be approved.

VII. CLASS COUNSEL'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES

79. For its significant efforts on behalf of the Class Representatives and the Settlement Class, Class Counsel is applying for compensation from the Settlement Fund, on behalf of all Plaintiffs' Counsel except for Labaton (who has determined not to seek a fee) on a percentage basis. As explained in Class Counsel's Fee Brief, courts within the Second Circuit recognize that the percentage method is the appropriate method of fee recovery and the prevailing method of determining attorneys' fees in the Second Circuit.

80. Consistent with the Notice, Class Counsel seeks a fee award of 30% of the Settlement Fund, *i.e.*, \$1,305,000, plus accrued interest, if any. Class Counsel also requests payment of its expenses incurred in connection with the prosecution of the Action from the Settlement Fund in the amount of \$588,493.18, plus the Class Representatives' request for a Service Award of \$96,000 in the aggregate for their extraordinary efforts on behalf of the Settlement Class. Class Counsel submits that, for the reasons discussed below and in the accompanying Fee Brief, such awards would be reasonable and appropriate under the circumstances before the Court.

A. Class Representatives Support the Fee and Expense Application

81. Class Representatives played a central role in monitoring and participating in the Action by, among other things, (i) providing key records to Class Counsel and helping identify individuals with knowledge and useful evidence, (ii) working with Class Counsel to flesh out the critical facts to support the legal theories in the pleadings, (iii) regularly communicating with Class Counsel regarding the posture and progress of the Action; (iv) reviewing and/or discussing significant pleadings, motions, and briefs filed in the Action; (v) assisting with responses to

Defendants' discovery requests (including the search for and production of documents); (vi) searching and obtaining additional evidence in the course of discovery; (vii) traveling to the United States for depositions and diligently spending a substantial amount of time preparing for the depositions, in view of language difficulties and lack of familiarity with the US legal system, customs, and concepts; (viii) monitoring and participating in settlement discussions; (ix) substantively participating in three mediations; and (x) evaluating and approving the proposed Settlement. *See* Ex. 1-3.

82. Class Representatives evaluated and fully support the Fee and Expense Application. *See* Ex. 1-3. In coming to this conclusion, Class Representatives considered the efficient prosecution of the action, the amount and quality of the work performed, and the recovery obtained for the Settlement Class. Class Representatives agreed to allow Lead Counsel to apply for 30% of the Settlement Fund. *See id* at ¶14.

B. The Favorable Settlement Achieved

83. Here, as described above, the \$4.35 million Settlement is a favorable result, particularly when considered in view of the substantial risks and obstacles to recovery if the Action were to continue through decisions on class certification and summary judgment, to trial, and through likely post-trial motions and appeals.

84. As set forth in detail above, the recovery obtained for the Settlement Class was the result of thorough and diligent investigative and prosecutorial efforts, complicated motion practice, and extensive discovery efforts. As a result of this Settlement, thousands of Settlement Class Members will benefit and receive compensation for their losses and avoid the very substantial risk of no recovery (or significantly less recovery) in the absence of a settlement.

C. The Risks and Unique Complexities of Contingent Class Action Litigation

85. This Action presented substantial challenges from the outset of the case. The specific complexities and risks Class Representatives faced in proving Defendants' liability and damages are detailed in Section III, above. These case-specific risks, which were made evident to Plaintiffs' Counsel and Class Representatives as the case advanced in discovery.

86. This Action – which has taken more than eight years from initiation to resolution – was undertaken on a contingent basis. From the outset, Class Counsel understood that it was embarking on a complex and expensive litigation with no guarantee of ever being compensated for the substantial investment of time and money the case would require. In undertaking that responsibility, Class Counsel and Plaintiffs' Counsel were obligated to ensure that sufficient resources were dedicated to the prosecution of the Action, and that funds were available to compensate staff and cover the considerable costs that a case such as this requires. With no promise of recovery, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Class Counsel received no compensation during the course of the eight years of prosecuting this Action but, along with other Plaintiffs' Counsel have dedicated over 4,547.70 hours of time with a lodestar value of \$3,190,208.00 and have incurred \$588,493.18 in expenses in prosecuting the Action for the benefit of the Settlement Class. *See* Declarations of Plaintiffs' Counsel, Ex. 5-7.

87. Even with the most vigorous and competent of efforts, success in contingent-fee litigation, such as this, is never assured. Class Counsel knows from experience that the commencement of a class action does not guarantee a settlement. To the contrary, it takes hard work and diligence by skilled counsel to develop the facts and theories that are needed to sustain a complaint, win at trial, or convince sophisticated defendants to engage in serious settlement negotiations at meaningful levels. Class Counsel is aware of many hard-fought lawsuits in which,

because of the discovery of facts unknown when the case was commenced—like that existed in the Action—or changes in the law during the pendency of the case, or a decision of a judge or jury following a trial on the merits, excellent professional efforts of members of plaintiff’s bar produced no fee for counsel.

88. Federal appellate reports are filled with opinions affirming dismissals with prejudice in securities cases. The many appellate decisions affirming summary judgment and directed verdicts for defendants show that surviving a motion to dismiss is not a guarantee of recovery. *See, e.g., In re Oracle Corp., Sec. Litig.*, 627 F.3d 376 (9th Cir. 2010); *In re Silicon Graphics Sec. Litig.*, 183 F.3d 970 (9th Cir. 1999); *Phillips v. Sci.-Atlanta, Inc.*, 489 F. App’x. 339 (11th Cir. 2012); *In re Smith & Wesson Holding Corp. Sec. Litig.*, 669 F.3d 68 (1st Cir. 2012); *McCabe v. Ernst & Young, LLP*, 494 F.3d 418 (3d Cir. 2007); *In re Digi Int’l, Inc. Sec. Litig.*, 14 F. App’x. 714 (8th Cir. 2001); *Geffon v. Micrion Corp.*, 249 F.3d 29 (1st Cir. 2001).

89. Even successfully certifying a class and successfully opposing a motion for summary judgment would not guarantee that Class Representatives would prevail at trial. Indeed, while only a few class actions have been tried before a jury, several have been lost in their entirety, such as *In re JDS Uniphase Securities Litigation*, Case No. C-02-1486 CW (EDL), slip op. (N.D. Cal. Nov. 27, 2007), or partially lost, such as *In re Clarent Corp. Securities Litigation*, Case No. C-01-3361 CRB, slip op. (N.D. Cal. Feb. 16, 2005).

90. Even plaintiffs who succeed at trial may find their verdict overturned. *See, e.g., In re BankAtlantic Bancorp, Inc.*, No. 07-cv-61542 (S.D. Fla. 2010) (after plaintiff’s jury verdict, court granted defendants’ motion for judgment as a matter of law on loss causation grounds), *aff’d*, 688 F. 3d 713 (11th Cir. 2012) (trial court erred, but defendants entitled to judgment as matter of law for lack of loss causation); *Glickenhau & Co. v. Household Int’l, Inc.*, 787 F.3d 408 (7th Cir.

2015) (reversing and remanding jury verdict of \$2.46 billion after 13 years of litigation on loss causation grounds and error in jury instruction under *Janus Capital Grp., Inc. v. First Derivative Traders*, 131 S. Ct. 2296 (2011)); *Ward v. Succession of Freeman*, 854 F.2d 780 (5th Cir. 1998) (reversing plaintiff's jury verdict for securities fraud); *Robbins v. Koger Props., Inc.*, 116 F.3d 1441 (11th Cir. 1997) (reversing \$81 million jury verdict and dismissing case with prejudice); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiff's verdict obtained after two decades of litigation). And, the path to maintaining a favorable jury verdict can be arduous and time consuming. *See, e.g., In re Apollo Grp., Inc. Sec. Litig.*, No. CV-04-2147-PHX-JAT, 2008 WL 3072731 (D. Ariz. Aug. 4, 2008), *rev'd*, No. 08-16971, 2010 WL 5927988 (9th Cir. June 23, 2010) (trial court tossing unanimous verdict for plaintiffs, which was later reinstated by the Ninth Circuit Court of Appeals) and judgment re-entered (*id.*) after denial by the Supreme Court of the United States of defendants' Petition for Writ of Certiorari (*Apollo Grp. Inc. v. Police Annuity & Benefit Fund*, 131 S. Ct. 1602 (2011)).

91. Losses such as those described above are exceedingly expensive for plaintiff's counsel to bear. The fees that are awarded in successful cases are used to cover enormous overhead expenses incurred during the course of litigations.

92. As discussed in detail above, this case was fraught with significant risk factors concerning liability and damages. Were this Settlement not achieved, and even if Class Representatives prevailed at trial, Class Representatives and Class Counsel potentially faced years of costly and risky appellate litigation against Defendants, with ultimate success far from certain and the prospect of no recovery significant. Class Counsel therefore respectfully submits that based upon the considerable risk factors present, this case involved a very substantial contingency risk to counsel.

D. The Time and Labor of Plaintiffs' Counsel

93. The work undertaken by all of Plaintiffs' Counsel in investigating and prosecuting this case and arriving at the present Settlement in the face of serious hurdles, has been time-consuming and challenging. As explained above, counsel conducted a robust investigation into the class's claims; researched and prepared two comprehensive complaints; briefed a thorough opposition to Defendants' motions to dismiss the Complaint; prepared for and participated in a motion to dismiss hearing; engaged in extremely thorough discovery efforts that led to obtaining hundreds of thousands of pages of documents from Defendants and third-parties; conducted weekly (or often more frequent) meetings during discovery to discuss the continued investigation, Defendants' document production, Class Representatives' document production, third party subpoenas, depositions, interrogatories, requests for admissions, class certification, and numerous other issues; engaged in numerous phone meet and confers with Defendants' Counsel and exchanged numerous emails with counsel regarding discovery issues; participated in the depositions of 12 witnesses, and prepared for several others; retained and had numerous meetings with several experts; and prepared for three mediations, including formulating detailed mediation submissions.

94. Attached as Exhibits 5-7 are the Declarations detailing Plaintiffs' Counsel's time and expenses. Included with these Declarations are schedules that report the amount of time spent by the attorneys and professional staff of Plaintiffs' Counsel and the "lodestar" calculations, *i.e.*, their hours multiplied by their hourly rates.

95. At all times throughout the pendency of the Action, Plaintiffs' Counsel's efforts were driven and focused on advancing the litigation to bring about the most successful outcome for the class, whether through settlement or trial, by the most efficient means possible. Plaintiffs' Counsel carefully and efficiently staffed the Action from the beginning.

96. The hourly rates of Plaintiffs' Counsel here range from \$725 to \$950 for partners, \$425 to \$750 for of counsels, \$475 to \$559 for associates, \$300 for a contract attorney, and \$185 for a paralegal. *See* Ex. 5-7. It is respectfully submitted that the hourly rates for Plaintiffs' Counsel are reasonable and customary for this type of complex and highly specialized commercial litigation.

97. Plaintiffs' Counsel has expended 4,567 hours in the prosecution and investigation of the Action through January 9, 2023. *See* Ex. 5-7. The resulting lodestar is \$3,190,208.50, which does not include any time that will necessarily be spent from this date forward administering the Settlement, preparing for and attending the Settlement Hearing, and assisting Settlement Class Members. *Id.* Pursuant to a lodestar "cross-check," applied within the Second Circuit, the requested fee of 30% of the Settlement Fund (or \$1,305,000) results in a negative "multiplier" of 0.41 on the lodestar – meaning that Plaintiffs' Counsel are seeking less than their lodestar in fees.

E. The Skill Required and Quality of the Work

98. Plaintiffs' Counsel are among the most experienced and skilled class action litigation law firms in the field. The expertise and experience of Plaintiffs' Counsel's attorneys are described in Exhibits 5-7.

F. Standing and Caliber of Defendants' Counsel

99. The quality of the work performed by Plaintiffs' Counsel in attaining the Settlement should also be evaluated in light of the quality of the opposition. Here, Defendants were represented by Hodgson Russ, LLP, a prestigious and experienced defense firm, which vigorously represents its clients. In the face of this experienced, formidable, and well-financed opposition, Class Counsel was nonetheless able to persuade Defendants to settle the case on terms favorable to the Settlement Class.

VIII. CLASS COUNSEL'S REQUEST FOR LITIGATION EXPENSES

100. Class Counsel seeks payment from the Settlement Fund of \$588,493 in Litigation Expenses reasonably and necessarily incurred by all Plaintiffs' Counsel in connection with prosecuting the claims against Defendants. *See* Ex. 5-7. The Notice informs the Settlement Class that Class Counsel will apply for payment of Litigation Expenses of no more than \$700,000, which would include Class Representatives' request for a Service Award directly related to their representation of the Settlement Class. *See* Ex.4-A. The amount requested is below this cap. To date, no objection to Class Counsel's request for expenses has been raised.

101. As attested to, Plaintiffs' Counsel's expenses are reflected on the books and records maintained by Plaintiff's 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. Plaintiffs' Counsel's declarations identify the specific category of expense – *e.g.*, expert fees, deposition transcription fees, document management and storage fees, electronic financial and factual research, service of process fees, travel costs, duplicating, and overnight delivery expenses.

102. A significant component of Plaintiffs' Counsel's expenses is the cost of experts, which total \$183,890.41 or approximately 31% of its total expenses. *See* Ex.6. As explained above, Plaintiffs' Counsel retained five experts: (i) Mr. Miller, a Corporate Trust Specialist, to opine on the standard of care, and Wilmington's handling of the Bio Profit accounts; (ii) Ms. Knauer, Ms. Ghiglieri and Mr. Delston, to on a bank's obligations pursuant to the AML/BSA regulations as they relate to the conduct at issue; and (iii) Mr. Regan to opine on accounting matters and damages. At the time the Parties agreed to settle the Action, Mr. Miller and Mr. Regan were preparing expert reports on the merits. Plaintiffs' Counsel spent numerous hours meeting, albeit virtually, primarily with Messrs. Miller and Regan, but with each of the other retained experts as well. These professionals were essential to the prosecution of the Action.

103. Costs related to discovery – particularly e-discovery – comprise a sizable amount of the litigation expenses, totaling \$228,260.48, or approximately 39% of all expenses. Ex. 5-7. These costs include \$27,873.78 in court reporting fees related to the 12 depositions taken by the Parties.

104. In addition, costs totaling \$82,091.45 were incurred in connection with travel. That included multiple travel to Rochester, New York for Court proceedings, travel to Wilmington, Delaware, and Buffalo, New York, for depositions of the Parties (including the three Class Representatives' trip from Taiwan to Buffalo), two trips to San Diego, California, the first to review and assess the Receiver's documents at a storage facility and second to depose the Receiver, and two trips to Taiwan; the first to meet with the Class Representatives and other investors in the Bio Profit Scheme and witnesses with knowledge, to debrief the Class Representatives and witnesses and gather documents and other crucial facts relating to filing the Action, and the second later trip, to meet and debrief other witnesses with knowledge, and to meet with hundreds of additional investors in the Bio Profit in connection with a possible group action in the event that Wilmington's numerous threatened challenges to class certification were successful, and in the alternative increase Plaintiffs' and the class negotiating leverage in upcoming settlement negotiations where Defendants were expected to bring up the arguments that, if a class is not certified, the size of the case will shrink to solely the three Class Representatives, and Class Counsel planned to rebut such arguments by showing that, even in the absence of class certification, the case would not go away or become far smaller and instead Plaintiffs and the proposed class members would simply continue on with their claims in a group case encompassing the majority of all investors. Travel costs also included travel to New York City for the JAMS mediation session, and for case and deposition strategy sessions during the time Plaintiffs' Counsel

were preparing for various important case proceedings or conducting depositions of Defendants' witnesses.

105. Expenses also include Plaintiffs' Counsel share of mediation fees paid to JAMS in the amount of \$23,039.39. Mediator Michael Young of JAMS oversaw the formal mediation session that the Parties participated in, and he facilitated ongoing negotiations between the Parties which ultimately resulted in the Settlement.

106. The other expenses for which Class Counsel seeks payment are the types of expenses that are necessarily incurred in litigation and routinely charged to clients who pay by the hour. These expenses include, among others, duplicating/printing costs, service and filing fees, and overnight delivery expenses.

107. All of the Litigation Expenses incurred, which total \$588,493.18, were necessary to the successful prosecution and resolution of the claims against Defendants.

108. In view of the complex nature of the Action, the expenses incurred were reasonable and necessary to pursue the interests of the Settlement Class. Accordingly, it is respectfully submitted that the expenses incurred by Plaintiffs' Counsel should be paid in full from the Settlement Fund.

IX. CLASS REPRESENTATIVES' REQUEST FOR A SERVICE AWARD

109. Additionally, Class Representatives seek a Service Award for the significant time and extraordinary effort they dedicated to the representation of the Settlement Class in the amount of \$32,000 for each of the three Class Representatives, for an aggregate amount of \$96,000, which, when included with Plaintiffs' Counsel's expenses, is below the \$700,000 that the Notice informed the Settlement Class would be the cap on expenses. The amount of time and effort devoted to this Action by Class Representatives is detailed in the accompanying Declarations of Yao-Yi Liu, Tung-Hung Hsieh and Chiu-Pao Tsai. Class Counsel respectfully submits that the amount

requested by Class Representatives is warranted in the case, given the Class Representatives' extensive work, time, and dedication in advocating for the class members' interests for a period of over eight years. Class Counsel further submits that the Class Representatives, who personally knew many of their fellow class members given that they worked for the same employer, a large Taiwan-based corporation that produces microchips, showed extraordinary dedication in their efforts to help the class and spent a substantial amount of time over the eight years of litigation – including using limited vacation time they would have otherwise spent for family vacations to instead travel to Buffalo and spend a week there to participate in in-person depositions, and spending many night hours as well as several entire nights, given the time difference between Taiwan and the United States, to participate in three mediations, multiple deposition preparation sessions, discovery-related discussions, and other case update conversations.

110. As more fully discussed in the Fee Brief and in Class Representatives' supporting declarations, Class Representatives have been committed to pursuing the Class's claims since they became involved in the Action. Class Representatives actively and effectively fulfilled their obligations as representatives of the Class, complying with all of the many demands placed upon them during the litigation and settlement of the Action. For instance, Class Representatives (i) regularly communicated with Lead Counsel regarding the posture and progress of the Action; (ii) reviewed pleadings and motions filed in the Action; (iii) coordinated and assisted with Class Representatives' production of documents and written discovery responses to Defendants; and (v) discussed mediation strategy, attended each mediation despite a 12-hour time difference, and evaluated settlement proposals. Ex. 1-3.

111. The efforts expended by Class Representatives during the course of the Action are precisely the types of activities courts have found support reimbursement to Class Representatives, and support Class Counsels' request.

X. THE REACTION OF THE SETTLEMENT CLASS TO THE FEE AND EXPENSE APPLICATION

112. As mentioned above, consistent with the Preliminary Approval Order, the Notices sent to Settlement Class Members advised them that Class Counsel would seek an award of attorneys' fees not to exceed 30% of the Settlement Fund, and payment of expenses in an amount not greater than \$700,000, and a Service Award not to exceed \$96,000 in the aggregate for their representation of the Settlement Class. *See* Ex. 4-A. Additionally, the Summary Notice was transmitted over *Globe Newswire*. *Id.* at ¶7. The Notice has also been available on the case webpage maintained by the Claims Administrator (*id.* at ¶9).

113. While the deadline set by the Court for Settlement Class Members to object to the requested fees and expenses has not yet passed, to date no one has objected to the fee or expense request. Class Counsel will respond to any objections that may be received in its reply papers.

XI. CONCLUSION

114. In view of the significant recovery for the Settlement Class and the substantial risks of this litigation, as described above and in the accompanying memorandum of law, Class Representatives and Class Counsel respectfully submit that the Settlement should be approved as fair, reasonable, and adequate, and that the proposed Plan of Allocation should likewise be approved as fair, reasonable, and adequate. In view of the significant recovery in the face of substantial risks; the quality, efficiency, and amount of work performed; the contingent nature of the fee; and the standing and experience of Plaintiffs' Counsel, as described above and in the accompanying memorandum of law, Class Counsel respectfully submits that a fee in the amount

of 30% of the Settlement Fund be awarded, that its expenses in the amount of \$588,493.18 be paid, and that Co-Lead Plaintiffs be awarded a Service Award of \$32,000 each or \$96,000 in the aggregate.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 9, 2023.

/s/ Paul J. Scarlato _____
PAUL J. SCARLATO

EXHIBIT 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

Civil No. 6:14-cv-06631-EAW-MJP

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

DECLARATION OF TUNG-HUNG HSIEH

I, Tung-Hung Hsieh, hereby declare as follows:

1. I am one of the Plaintiffs in the above-captioned action (the “Action”). I submit this Declaration in support of Plaintiffs’ Motion for (I) Final Approval of the Proposed Settlement, (II) an Award of Attorneys’ Fees and Reimbursement of Expenses, and (III) Service Awards to Plaintiffs.¹

2. I live in Taiwan. I am an engineer, and at all times relevant to this matter have been employed by Taiwan Semiconductor Manufacturing Company (“TSMC”). I was an investor in the BioProfit fraudulent investment scheme and lost a substantial amount of my life savings in that fraud. I work with the other two class representatives in this case, Yao-Yi Liu and Chiu-Pao Tsai,

¹ Capitalized terms not defined here are defined in the Stipulation of Settlement (Dkt. 92).

whom I know personally from work. I also know many other BioProfit victims who are also TSMC employees and live in Taiwan.

3. In 2014, after the BioProfit fraud was exposed by the U.S. Securities and Exchange Commission, I and several of my TSMC colleagues who were also BioProfit victims sought to understand our legal situation and learn more about BioProfit's situation and potential options to recover our losses, including legal representation in the United States.

4. In around summer 2014, I learned from my colleague, Yao-Yi Liu, that he was communicating with an attorney in the United States who may be able to assist us pursue claims in connection with our BioProfit investment. Yao-Yi Liu started cc-ing me to messages exchanged with Mr. Rosca, and I too started communicating with him directly regarding my and my colleagues' BioProfit losses.

5. Following my and my colleagues' online exchanges with Mr. Rosca, I helped my fellow investor Yao-Yi Liu organize attorney Rosca and his co-counsel, attorney Adam Wolf's visit to Taiwan to meet with the BioProfit investors in my group. During their visit, I repeatedly met with Messrs. Rosca and Wolf and helped my colleague Yao-Yi Liu organize meetings between them and other BioProfit investors I knew, who were also looking for legal representation in the United States in connection with their losses. I provided BioProfit-related records to Mr. Rosca and helped obtain other BioProfit-related records from other BioProfit investors in my group, to assist Mr. Rosca and his colleagues evaluate our potential legal options. Among others, I obtained numerous bank records from my bank, related to my investments in BioProfit.

6. Following our in-person meetings in Taiwan, and discussions about a potential case, I, along with several other BioProfit investors in my group including the other two class

representatives, Yao-Yi Liu and Chiu-Pao Tsai, hired Mr. Rosca and his colleagues to represent us in this case and seek compensation for our BioProfit related losses.

7. Thereafter, I spent a significant amount of time obtaining and sending to my lawyers records related to BioProfit. I reviewed important case documents including the complaint filed in this case and other court records prepared by my lawyers and kept in touch with them about the progress of our case.

8. In early 2018, I, along with the other two class representatives, helped organize another trip to Taiwan by attorneys Rosca and Wolf, in order for them to gather additional evidence in this matter and talk to potential witnesses.

9. Also in 2018, I took a week off from work to travel to the United States, together with the other two class representatives, and provide testimony in a deposition in this case. The flight was approximately 24 hours each way. We arrived in Buffalo, NY on August 18, 2018 and headed back home right after our depositions, on August 22, 2018, without spending any leisure or vacation time while in the US. I have a very busy and long work schedule, including long work hours, and I had to use a significant part of the vacation time I would have otherwise spent with my family, in order to be able to travel to Buffalo for my deposition in this case.

10. In addition, I spoke and exchanged emails with my lawyer, Mr. Rosca, on a regular basis to learn about the status of the case and any developments, and provide information that he and his colleagues needed.

11. I also participated in three mediations in this matter, via videoconferencing systems. Due to the thirteen-hour time difference between Taiwan and the US East Coast, I was up all night for each of the three mediations. During the mediations, I briefly interacted with the mediators.

12. Throughout this entire matter, I conveyed my opinions to my lawyers about the important steps in the case, and I approved of their efforts to try and resolve the case. Based on my understanding of the merits of this case and the strength of our claims, I also approved of the settlement they reached.

13. I believe that the proposed settlement is fair, reasonable, and adequate, and should be approved. My support for the proposed settlement is based upon, among other things, my understanding of the allegations, defenses, and likelihood of success at trial based on the evidence collected in this case as explained to me by my lawyers.

14. I also support my attorneys' fee and expense reimbursement request. My attorneys worked diligently in this action since 2014, for more than eight years and without pay, and spent significant amounts of their own money, in order to achieve this Settlement which confers financial benefits to the class members which they would not have received, absent this action and settlement. They routinely discussed the progress of the litigation with me and kept me informed through every stage of the litigation, beginning with the initial investigation through the repeated settlement negotiations. In my opinion, my attorneys deserve the fee and expense reimbursement award they are seeking.

15. My attorneys are seeking an award of \$35,000 for the time and effort I spent over the past eight years helping to investigate the claims alleged in this Action and supervising and assisting my attorneys in this litigation, including (1) helping my lawyers collect evidence and debrief witnesses during their two trips to Taiwan, (2) communicating extensively with my counsel relating to their investigation, strategy and actions in the litigation, including the investigation, initiation, progress, status, and direction of the litigation and settlement negotiations; (3) reviewing documents filed with the Court by both parties and other information provided by my attorneys in

conjunction with this action; (4) reviewing the actions taken by the SEC relating to BioProfit; (5) searching for and retrieving documents and information in response to the request for production of documents directed to Plaintiffs; (6) participating in three remote mediations at night (Taiwan time), and (7) taking a trip to the United States, of approximately 24 hours each way, solely to testify in this case. From my initial interactions with attorney Rosca in 2014 through today, I have spent several hundreds hours performing my duties as a class representative to help vindicate the rights of the BioProfit investors.

16. I have not received, been promised or offered and will not accept any form of compensation, directly or indirectly, for prosecuting or serving as a Plaintiff in this action except any service award that the Court may grant in recognition of the time and effort I spent in the prosecution of this action and my contribution to achieving the benefits to be conferred on the class of BioProfit investors.

17. I do not have any claim or interest that is adverse to BioProfit investors.

18. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on 9 day of December, 2022.



Tung-Hung Hsieh

EXHIBIT 2

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

Civil No. 6:14-cv-06631-EAW-MJP

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

DECLARATION OF YAO-YI LIU

I, Yao-Yi Liu, hereby declare as follows:

1. I am one of the Plaintiffs in the above-captioned action (the "Action"). I submit this Declaration in support of Plaintiffs' Motion for (I) Final Approval of the Proposed Settlement, (II) an Award of Attorneys' Fees and Reimbursement of Expenses, and (III) Service Awards to Plaintiffs.¹

2. I live in Taiwan. I am an engineer, and at all times relevant to this matter have been employed by Taiwan Semiconductor Manufacturing Company ("TSMC"). I was an investor in the BioProfit fraudulent investment scheme and lost a substantial amount of my life savings in that fraud. I know many other BioProfit victims who are also TSMC employees and live in Taiwan.

¹ Capitalized terms not defined here are defined in the Stipulation of Settlement (Dkt. 92).

3. In 2014, after the BioProfit fraud was exposed by the U.S. Securities and Exchange Commission, I and several of my TSMC colleagues who were also BioProfit victims sought to understand our legal situation and learn more about BioProfit's situation and potential options to recover our losses, including legal representation in the United States.

4. Through my research over the Internet, I found my lead attorney in this case, Alan Rosca, and reached out to him regarding my and my colleagues' BioProfit losses. Eventually, I made several other TSMC colleagues in our group aware of my interactions with Mr. Rosca, including the two other class representatives in this case, Tung-Hung "Rick" Hsieh and Chiu-Pao "CP" Tsai.

5. Following my and my colleagues' online exchanges with Mr. Rosca, I helped organize his and his co-counsel, Adam Wolf's visit to Taiwan to meet with the BioProfit investors in my group. During their visit, I repeatedly met with attorneys Rosca and Wolf and helped organize meetings between them and other BioProfit investors I knew, who were also looking for legal representation in the United States in connection with their losses. I provided BioProfit-related records to Mr. Rosca and helped obtain other BioProfit-related records from other BioProfit investors in my group, to assist Mr. Rosca and his colleagues evaluate our potential legal options. Among others, I went with Mr. Rosca to my bank and helped translate his requests to my bank account representative so that my bank could provide me with records and information Mr. attorney Rosca and his colleagues needed. I also helped translate conversations between attorneys Rosca and Wolf and some of my fellow BioProfit investors during meetings in Taiwan.

6. Following our in-person meetings in Taiwan, and discussions about a potential case, I, along with several other BioProfit investors in my group including the other two class

representatives, Rick Hsieh and CP Tsai, hired Mr. Rosca and his colleagues to represent us in this case and seek compensation for our BioProfit related losses.

7. Thereafter, I spent a significant amount of time obtaining and sending to my lawyers records related to BioProfit. I reviewed important case documents including the complaint filed in this case and other court records prepared by my lawyers and kept in touch with them about the progress of our case.

8. In early 2018, I, along with the other two class representatives, helped organize another trip to Taiwan by attorneys Rosca and Wolf, in order for them to gather additional evidence in this matter and talk to potential witnesses.

9. Also in 2018, I took a week off from work to travel to the United States, together with the other two class representatives, and provide testimony in a deposition in this case. The flight was approximately 24 hours each way. We arrived in Buffalo, NY on August 18, 2018 and headed back home right after our depositions, on August 24, 2018, without spending any leisure or vacation time while in the US. I have a very busy and long work schedule, including long work hours, and I had to use a significant part of the vacation time I would have otherwise spent with my family, in order to be able to travel to Buffalo for my deposition in this case.

10. In addition, I spoke and exchanged emails with my lawyer, Mr. Rosca, on a regular basis to learn about the status of the case and any developments, and provide information that he and his colleagues needed.

11. I also participated in three mediations in this matter, via videoconferencing systems. Due to the thirteen-hour time difference between Taiwan and the US East Coast, I was up all night for each of the three mediations. During the mediations, I briefly interacted with the mediators.

12. Throughout this entire matter, I conveyed my opinions to my lawyers about the important steps in the case, and I approved of their efforts to try and resolve the case. Based on my understanding of the merits of this case and the strength of our claims, I also approved of the settlement they reached.

13. I believe that the proposed settlement is fair, reasonable, and adequate, and should be approved. My support for the proposed settlement is based upon, among other things, my understanding of the allegations, defenses, and likelihood of success at trial based on the evidence collected in this case as explained to me by my lawyers.

14. I also support my attorneys' fee and expense reimbursement request. My attorneys worked diligently in this action since 2014, for more than eight years and without pay, and spent significant amounts of their own money, in order to achieve this Settlement which confers financial benefits to the class members which they would not have received, absent this action and settlement. They routinely discussed the progress of the litigation with me and kept me informed through every stage of the litigation, beginning with the initial investigation through the repeated settlement negotiations. In my opinion, my attorneys deserve the fee and expense reimbursement award they are seeking.

15. My attorneys are seeking an award of \$35,000 for the time and effort I spent over the past eight years helping to investigate the claims alleged in this Action, and supervising and assisting my attorneys in this litigation, including (1) helping my lawyers collect evidence and debrief witnesses during their two trips to Taiwan, (2) communicating extensively with my counsel relating to their investigation, strategy and actions in the litigation, including the investigation, initiation, progress, status, and direction of the litigation and settlement negotiations; (3) reviewing documents filed with the Court by both parties and other information provided by my attorneys in

conjunction with this action; (4) reviewing the actions taken by the SEC relating to BioProfit; (5) searching for and retrieving documents and information in response to the request for production of documents directed to Plaintiffs; (6) participating in three remote mediations at night (Taiwan time), and (7) taking a trip to the United States, of approximately 24 hours each way, solely to testify in this case. From my initial interactions with attorney Rosca in 2014 through today, I have spent several hundred hours performing my duties as a class representative to help vindicate the rights of the BioProfit investors.

16. I have not received, been promised or offered and will not accept any form of compensation, directly or indirectly, for prosecuting or serving as a Plaintiff in this action except any service award that the Court may grant in recognition of the time and effort I spent in the prosecution of this action and my contribution to achieving the benefits to be conferred on the class of BioProfit investors.

17. I do not have any claim or interest that is adverse to BioProfit investors.

18. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on 9 day of December, 2022.

Yao Yi Liu

Yao-Yi Liu

EXHIBIT 3

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

Civil No. 6:14-cv-06631-EAW-MJP

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

DECLARATION OF CHIU-PAO TSAI

I, Chiu-Pao Tsai, hereby declare as follows:

1. I am one of the Plaintiffs in the above-captioned action (the “Action”). I submit this Declaration in support of Plaintiffs’ Motion for (I) Final Approval of the Proposed Settlement, (II) an Award of Attorneys’ Fees and Reimbursement of Expenses, and (III) Service Awards to Plaintiffs.¹

2. I live in Taiwan. I am an engineer, and at all times relevant to this matter have been employed by Taiwan Semiconductor Manufacturing Company (“TSMC”). I was an investor in the BioProfit fraudulent investment scheme and lost a substantial amount of my life savings in that fraud. I work with the other two class representatives in this case, Tung-Hung Hsieh and Yao-Yi

¹ Capitalized terms not defined here are defined in the Stipulation of Settlement (Dkt. 92).

Liu, whom I know personally from work. I also know many other BioProfit victims who are also TSMC employees and live in Taiwan.

3. In 2014, after the BioProfit fraud was exposed by the U.S. Securities and Exchange Commission, I and several of my TSMC colleagues who were also BioProfit victims sought to understand our legal situation and learn more about BioProfit's situation and potential options to recover our losses, including legal representation in the United States.

4. In around summer 2014, I learned from my colleague, Yao-Yi Liu, that he was communicating with an attorney in the United States who may be able to assist us pursue claims in connection with our BioProfit investment. Yao-Yi Liu started cc-ing me to messages exchanged with Alan Rosca, and I too started participating in communications with him regarding my and my colleagues' BioProfit losses.

5. Following my and my colleagues' online exchanges with Mr. Rosca, I helped my fellow investor Yao-Yi Liu organize Mr. Rosca and his co-counsel, Adam Wolf's visit to Taiwan to meet with the BioProfit investors in my group. During their visit, I met with Messrs. Rosca and Wolf and helped my colleague Yao-Yi Liu organize meetings between them and other BioProfit investors I knew, who were also looking for legal representation in the United States in connection with their losses. I provided BioProfit-related records to Mr. Rosca and helped obtain other BioProfit-related records from other BioProfit investors in my group, to assist Mr. Rosca and his colleagues evaluate our potential legal options. Among others, I obtained numerous bank records from my bank, related to my investments in BioProfit.

6. Following our in-person meetings in Taiwan, and discussions about a potential case, I, along with several other BioProfit investors in my group including the other two class

representatives, Yao-Yi Liu and Chiu-Pao Tsai, hired Mr. Rosca and his colleagues to represent us in this case and seek compensation for our BioProfit related losses.

7. Thereafter, I spent a significant amount of time obtaining and sending to my lawyers records related to BioProfit. I reviewed important case documents including the complaint filed in this case and other court records prepared by my lawyers and kept in touch with them about the progress of our case.

8. In early 2018, I, along with the other two class representatives, helped organize another trip to Taiwan by Messrs. Rosca and Wolf, in order for them to gather additional evidence in this matter and talk to potential witnesses.

9. Also in 2018, I took a week off from work to travel to the United States, together with the other two class representatives, and provide testimony in a deposition in this case. The flight was approximately 24 hours each way. We arrived in Buffalo, NY on August 18, 2018 and headed back home right after our depositions, on August 24, 2018, without spending any leisure or vacation time while in the US. I have a very busy and long work schedule, including long work hours, and I had to use a significant part of the vacation time I would have otherwise spent with my family, in order to be able to travel to Buffalo for my deposition in this case.

10. In addition, I participated in email exchanges with my lawyer, Mr. Rosca, on a regular basis to learn about the status of the case and any developments, and provide information that he and his colleagues needed.

11. I also participated in three mediations in this matter, via videoconferencing systems. Due to the thirteen-hour time difference between Taiwan and the US East Coast, I was up all night for each of the three mediations. During the mediations, I briefly interacted with the mediators.

12. Throughout this entire matter, I conveyed my opinions to my lawyers about the important steps in the case, and I approved of their efforts to try and resolve the case. Based on my understanding of the merits of this case and the strength of our claims, I also approved of the settlement they reached.

13. I believe that the proposed settlement is fair, reasonable, and adequate, and should be approved. My support for the proposed settlement is based upon, among other things, my understanding of the allegations, defenses, and likelihood of success at trial based on the evidence collected in this case, as explained to me by my lawyers.

14. I also support my attorneys' fee and expense reimbursement request. My attorneys worked diligently in this action since 2014, for more than eight years and without pay, and spent significant amounts of their own money, in order to achieve this Settlement which confers financial benefits to the class members which they would not have received, absent this action and settlement. They routinely discussed the progress of the litigation with me and kept me informed through every stage of the litigation, beginning with the initial investigation through the repeated settlement negotiations. In my opinion, my attorneys deserve the fee and expense reimbursement award they are seeking.

15. My attorneys are seeking an award of \$35,000 for the time and effort I spent over the past eight years helping to investigate the claims alleged in this Action and supervising and assisting my attorneys in this litigation, including (1) helping my lawyers collect evidence and debrief witnesses during their two trips to Taiwan, (2) communicating extensively with my counsel relating to their investigation, strategy and actions in the litigation, including the investigation, initiation, progress, status, and direction of the litigation and settlement negotiations; (3) reviewing documents filed with the Court by both parties and other information provided by my attorneys in

conjunction with this action; (4) reviewing the actions taken by the SEC relating to BioProfit; (5) searching for and retrieving documents and information in response to the request for production of documents directed to Plaintiffs; (6) participating in three remote mediations at night (Taiwan time), and (7) taking a trip to the United States, of approximately 24 hours each way, solely to testify in this case. From my initial interactions with attorney Rosca in 2018 through today, I have spent several hundred hours performing my duties as a class representative to help vindicate the rights of the BioProfit investors.

16. I have not received, been promised or offered and will not accept any form of compensation, directly or indirectly, for prosecuting or serving as a Plaintiff in this action except any service award that the Court may grant in recognition of the time and effort I spent in the prosecution of this action and my contribution to achieving the benefits to be conferred on the class of BioProfit investors.

17. I do not have any claim or interest that is adverse to BioProfit investors.

18. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on 9 day of December, 2022.

Chiu-Pao Tsai
Chiu-Pao Tsai

EXHIBIT 4

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

Civil No. 6:14-cv-06631-EAW-MJP

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

**DECLARATION OF JOSEPHINE BRAVATA CONCERNING: (A) MAILING OF THE
NOTICE AND CLAIM FORM; (B) PUBLICATION OF THE SUMMARY NOTICE; (C)
REPORT ON REQUESTS FOR EXCLUSION AND OBJECTIONS; AND (D) STATUS
OF CLAIM FORMS FILED**

I, Josephine Bravata, declare as follows:

1. I am a Quality Assurance Manager of Strategic Claims Services (“SCS”), a nationally recognized class action administration firm. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein. I have over twenty years of experience specializing in the administration of class action cases. SCS was established in April 1999 and has administered over four-hundred fifty (450) class action cases since its inception.

2. Pursuant to the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement, dated October 11, 2022 (the “Preliminary Approval Order”), SCS was approved as Claims Administrator in connection with the Settlement of the above-captioned action.¹ I submit

¹ All capitalized terms used herein that are not otherwise defined have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated August 12, 2022 (the “Stipulation”).

this declaration in order to provide the Court and the Settling Parties information regarding the mailing of the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses and Service Awards ("Notice") and personalized Claim Form and Release (collectively, the "Notice and Claim Form") to potential Settlement Class Members, as well as updates concerning other aspects of the Settlement administration process. A copy of the Notice and Claim Form is attached as **Exhibit A**.

MAILING OF NOTICE AND CLAIM FORM

3. SCS received claim forms from David P. Stapleton, Receiver and a Settlement Class Member list from the nominees. SCS proceeded with comparing the data from the Receiver and Nominees. SCS then mailed the Notice and Claim Form in Chinese to the brokers/nominees so they can mail to their clients on November 10, 2022. The Claim Form was personalized with the Settlement Class Member's name and address, the amount invested, and the amount received. A copy of the Notice and Claim Form in Chinese is attached as **Exhibit B**.

4. SCS received email addresses from the Nominees on November 11, 2022. The email addresses were submitted through a verification program SCS uses called BriteVerify to confirm the email addresses are active. Emails were then sent with the personalized information (mentioned in the above paragraph) on November 16, 2022.

5. On November 23, 2022, Nominees submitted additional Settlement Class Member's names, addresses, and email addresses. SCS promptly mailed a Notice and Claim in Chinese and emailed a notification.

6. In total, 1,097 Notice and Claims have been mailed and/or emailed to Settlement Class Members.

PUBLICATION OF THE SUMMARY NOTICE

7. Pursuant to the Preliminary Approval Order, the Summary Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys' Fees and Expenses, and Service Awards ("Summary Notice") was published once in Chinese in *Globe Newswire* on November 10, 2022, as shown in the confirmations of publication attached hereto as **Exhibit C**.

TOLL-FREE PHONE LINE

8. SCS maintains a toll-free telephone number (1-866-274-4004) for Settlement Class Members to call and obtain information about the Settlement. SCS has promptly responded to each telephone inquiry and will continue to address Settlement Class Member inquiries.

SETTLEMENT WEBPAGE

9. On November 8, 2022, SCS established a webpage on its website at www.strategicclaims.net/bioprosfit/. The webpage is accessible 24 hours a day, 7 days a week. The webpage contains the current status; the case deadlines; an online claim filing system; and the important documents such as the Claim Form (in English and Chinese), the Notice (in English and Chinese), the Preliminary Approval Order, and the Stipulation. On December 6, 2022, the webpage was updated with the new deadlines for claims filing, opt-out, and objection deadlines pursuant to the Court Order.

REPORT ON EXCLUSIONS AND OBJECTIONS

10. The Notice and the settlement webpage informed potential Settlement Class Members that written requests for exclusion are to be mailed to SCS such that they are received no later than December 21, 2022. SCS has been monitoring all mail delivered for this case. As of the date of this declaration, SCS has received no exclusion requests.

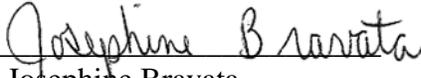
11. According to the Notice, Settlement Class Members seeking to object to the Settlement or any of its terms, the proposed Plan of Allocation of the Net Settlement Fund, and/or Class Counsel's Fee and Expense Application for Service Awards, must be submitted to Class Counsel and Defendants' Counsel, as well as filed with the Clerk of the Court, no later than December 21, 2022. As of the date of this declaration, SCS has not received any objections, and SCS has not been notified that an objection was filed.

STATUS OF CLAIM FORMS FILED

12. The Notice and Summary Notice also informed Settlement Class Members that in order to qualify for a payment of the Settlement, a Claim Form must be timely filed either online at www.strategicclaims.net/BioProfit/ or by mail. As of the date of this declaration, SCS has received 787 Claims. The claims filing deadline is February 6, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 9th day of January 2022, in Media, Pennsylvania.


Josephine Bravata

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI Individually and on Behalf
of All Others Similarly Situated,
Plaintiffs,

vs.

Civil No. 6:14-cv-06631-EAW-MJP

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,
Defendants.

**NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT,
MOTION FOR ATTORNEYS' FEES AND EXPENSES, AND SERVICE AWARDS**

If you invested money in the Bio Profit Funds (BPS I, BPS II, BPS III, BPS V, or Velocity Valley & Grand) offered by Velocity Investment Group, Inc., and lost money as a result of your investment (the "Class"), you may be entitled to a payment from a class action settlement.

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

- The purpose of this Notice is to inform you of the pendency of this class action lawsuit (the "Action"), the proposed settlement of the Action (the "Settlement"),¹ and a hearing to be held by the Court to consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the "Plan of Allocation") should be approved; (iii) Class Counsel's application for attorneys' fees and expenses, and (iv) Class Counsel's application for Service Awards to the Class Representatives (*see* pages 3 and 9 below). This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Settlement Class.
- If approved by the Court, the Settlement will create a \$4.35 million cash fund, plus earned interest, for the benefit of eligible Settlement Class Members, after the deduction of attorneys' fees and expenses, any Service Awards awarded by the Court, Notice and Administration Expenses, and Taxes.
- The Settlement resolves claims by Court-appointed Class Representatives Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai (collectively, "Plaintiffs" or "Class Representatives") that have been asserted on behalf of the Settlement Class (defined below) against Wilmington Trust Company and Wilmington Trust, National Association ("Wilmington" or "Defendants"). It avoids the costs and risks of continuing the litigation; pays money to eligible investors; and releases the Released Defendant Parties (defined below) from liability.

If you are a Settlement Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Notice carefully.

¹ The terms of the Settlement are in the Stipulation and Agreement of Settlement, dated August 12, 2022 (the "Stipulation"), which can be viewed at www.strategicclaims.net/BioProfit/. All capitalized terms not defined in this Notice have the same meanings as defined in the Stipulation.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY JANUARY 4, 2023	The <u>only</u> way to get a payment. <i>See</i> Question 8 below for details.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY DECEMBER 21, 2022	Get no payment. This is the only option that, assuming your claim is timely brought, might allow you to ever bring or be part of any other lawsuit against Defendants and/or the other Released Defendant Parties concerning the Released Claims. <i>See</i> Question 11 below for details.
OBJECT BY DECEMBER 21, 2022	Write to the Court about why you do not like the Settlement, the Plan of Allocation, and/or Class Counsel's Fee and Expense Application, and application for Service Awards. If you object, you will still be a member of the Settlement Class. <i>See</i> Question 16 below for details.
GO TO A HEARING ON JANUARY 11, 2023, AND FILE A NOTICE OF INTENTION TO APPEAR BY DECEMBER 21, 2022	Ask to speak in Court at the Settlement Hearing about the Settlement. <i>See</i> Question 20 below for details.
DO NOTHING	Get no payment. Give up rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to all Settlement Class Members who timely submit valid Claim Forms, if the Court approves the Settlement and after any appeals are resolved. Please be patient.

SUMMARY OF THE NOTICE

Summary of the Settlement Terms

1. Wilmington will pay \$4.35 million (the “Settlement Fund”) to resolve the claims of Plaintiffs and the Class. The Settlement Class and each member of the Class is limited solely to the Settlement Fund for satisfaction of all Released Claims against the Released Defendant Parties.

Reasons for the Settlement

2. For Plaintiffs, the principal reason for the Settlement is the guaranteed cash benefit to the Settlement Class. This benefit must be compared to the uncertainty of being able to survive contested motions for class certification; prove the allegations in the Amended Complaint, particularly with respect to Wilmington’s actual knowledge of the Bio Profit Scheme and/or Michael Wang’s breach of fiduciary duty; obtaining certification of the Class and maintaining certification through trial; the risk that the Court may grant some or all of Defendants’ likely motion for summary judgment; the uncertainty of a greater recovery after a trial and appeals; the risks of litigation, especially in complex actions like this; as well as the difficulties and delays inherent in such litigation (including any trial and appeals).

3. For Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that the Settlement Class Members were damaged, the principal reason for entering into the Settlement is to end the burden, expense, uncertainty, and risk of further litigation.

Statement of Attorneys' Fees and Expenses Sought

4. Class Counsel, on behalf of itself and other Plaintiffs' Counsel, will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed 30% of the Settlement Fund, which includes any accrued interest. Class Counsel will also apply for payment of litigation expenses incurred by Plaintiffs' Counsel in prosecuting the Action in an amount not to exceed \$700,000.00, plus accrued interest, and an application for Service Awards for the Class Representatives to compensate them for their efforts in representing the interests of the Class not to exceed \$96,000 in the aggregate. A copy of the Fee and Expense Application will be posted on www.strategicclaims.net/BioProfit/ after it has been filed with the Court.

Identification of Attorneys' Representatives

5. Class Representatives and the Settlement Class are represented by Class Counsel, Alan Rosca and Paul Scarlato, Rosca Scarlato, LLC, 161 Washington Street, Suite 1025, Conshohocken, PA 19428, (888) 998-0530, www.rscounsel.law.

6. Further information regarding this Action, the Settlement, and this Notice may be obtained by contacting the *Bio Profit Litigation*, c/o Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063 or info@strategicclaims.net or visit the website at www.strategicclaims.net/BioProfit/.

Please Do Not Call the Court with Questions About the Settlement.

BASIC INFORMATION

1. Why did I get this Notice?

7. You or someone in your family may have invested money in the Bio Profit Funds (BPS I, BPS II, BPS III, BPS V, or Velocity Valley & Grand) offered by Velocity Investment Group, Inc. and lost money as a result of your investment. **Receipt of this Notice does not mean that you are a Member of the Settlement Class or that you will be entitled to receive a payment. If you wish to be eligible for a payment, you are required to submit the Claim Form that is being distributed with this Notice. See Questions 5 and 8 below.**

8. The Court directed that this Notice be sent to Settlement Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement.

9. The Court in charge of the Action is the United States District Court for the Western District of New York, and the case is known as *Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai v. Wilmington Trust Company, et al.*, No. 6:14-cv-06631. The Action is assigned to the Honorable Elizabeth A. Wolford, Chief United States District Judge.

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

10. Wilmington is a United States-based financial institution that provides wealth management and trust services. Plaintiffs allege that Wilmington served as the escrow agent and custodian for each of the BPS Funds.

11. On November 11, 2014, Plaintiffs Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai filed a class action complaint in the United States District Court for the Western District of New York alleging that Wilmington knowingly assisted in a Ponzi scheme conceived by Michael Wang through his company, Velocity Investment Group, Inc., during the time period of June 2005 and October 2013 (the "Bio Profit Scheme"). Plaintiffs' Complaint asserted claims for: 1) aiding and abetting fraud; 2) aiding and abetting

conversion; 3) aiding and abetting breach of fiduciary duty; 4) breach of fiduciary duty; and 5) gross negligence.

12. Wilmington filed a motion to dismiss Plaintiffs' Complaint, and Plaintiffs filed an Amended Complaint in response thereto on May 22, 2015.

13. Wilmington moved to dismiss the Amended Complaint and the Court denied Wilmington's motion as to Plaintiffs' aiding and abetting a breach of fiduciary duty, gross negligence and breach of fiduciary duty claims, and granted Wilmington's motion as to Plaintiffs' claims for aiding and abetting fraud and aiding and abetting conversion, thus dismissing those claims.

14. The May 22, 2015 Amended Complaint is the operative complaint in the Action.

15. On October 23, 2017, Wilmington filed an Answer denying all allegations asserted in the Amended Complaint, and filed an Amended Answer on November 14, 2017.

16. On November 15, 2017, the Parties participated in a Court-Ordered mediation pursuant to the Court's Alternative Dispute Resolution Plan. That mediation was not successful.

17. Class Representatives, through Plaintiffs' Counsel, have conducted a robust investigation relating to the claims, defenses, and underlying events and transactions that are the subject of the Action, as set forth below. The Parties have engaged in substantial discovery concerning Plaintiffs' claims and Wilmington's defenses, including exchanging tens of thousands of pages of documents, obtaining several million pages of documents from the court-appointed Receiver in the action captioned *Securities and Exchange Commission v. Yin Nan "Michael" Wang, et al.*, Case No. CV 13-7553 (C.D. Cal. Oct. 15, 2013) (the "SEC Action"), conducting depositions of each of the named Plaintiffs and Defendants' witnesses. The Class Representatives traveled from Taiwan to Buffalo, New York to have their depositions taken. The Parties have also briefed many of the issues in this matter through motion practice and mediation statements.

18. On February 13, 2020, the Parties participated in an all-day arm's length mediation before Michael D. Young of JAMS to attempt resolve the Action. The Parties were unable to resolve the Action at that time. The Parties resumed discovery.

19. On March 23, 2021, the Court issued an Order directing the Parties to participate in a settlement conference before the Honorable Mark W. Pederson. (ECF 199).

20. On April 30, 2021, the Parties participated in a settlement conference before Judge Pederson. (ECF 203). The Parties were unable to resolve the Action at that time and resumed discovery.

21. The Parties reengaged the assistance of Mr. Young to resume settlement discussions in November 2021. Based upon the Parties' discovery, investigation, and evaluation of the facts and law relating to the matters in the pleadings, and the mediation and further negotiations before Mr. Young, the Parties have agreed to settle this Action pursuant to the provisions of this Agreement.

3. Why is this a class action?

22. In a class action, one or more persons or entities (in this case, Class Representatives Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai), sue on behalf of people and entities who have similar claims. Together, these people and entities are a "class," and each is a "class member." Class actions allow the adjudication of many individuals' similar claims that might be too small economically to bring as individual actions. One court resolves the issues for all class members at the same time, except for those who exclude themselves, or "opt-out," from the class.

4. What are the reasons for the Settlement?

23. The Court did not finally decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a settlement. Plaintiffs and Class Counsel believe that the claims asserted in the Action have merit. They recognize, however, the expense and length of continued proceedings needed to pursue the claims through trial and appeals, as well as the difficulties in establishing liability. For example,

Defendants have raised a number of arguments and defenses (which they would likely raise in opposition to a motion to certify a class, in their affirmative motion for summary judgment, and at trial) countering Plaintiffs' allegations, such as this case did not meet the rigorous standards for certification of a litigation class, that Plaintiffs would be unable to establish Wilmington's actual knowledge that the Bio Profit Scheme was a Ponzi scheme, or that Wilmington substantially assisted the Scheme, or that Wilmington's conduct was the cause of the Bio Profit investors' losses. In addition, Wilmington would be expected to advance an argument that the relationship between the Class Members and Velocity was that of a borrower/lender, and thus Velocity and its manager Michael Wang did not owe a fiduciary duty to the BPS investors. In the absence of a settlement, the Parties would present factual and expert testimony on each of these issues, and there is a substantial risk that the Court or jury would resolve these issues unfavorably against Plaintiffs and the Settlement Class. Class Representatives and Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

24. Defendants have denied and continue to deny each and every one of the claims alleged by Plaintiffs in the Action, including all claims in the Amended Complaint. Nonetheless, Defendants have concluded that continuation of the Action would be protracted and expensive and have taken into account the uncertainty and risks inherent in any litigation, especially a complex case like this Action, and believe that the Settlement is in the best interests of Defendants.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the Settlement Class?

25. The Court directed, for the purposes of the proposed Settlement, that everyone who fits the following description is a Settlement Class Member and subject to the Settlement unless they are an excluded person (*see* Question 6 below) or take steps to exclude themselves from the Settlement Class (*see* Question 11 below):

All persons and entities who invested in the Bio Profit Scheme and were damaged thereby.

26. You are a Settlement Class Member if you invested money in any of the Bio Profit Funds, BPS I, BPS II, BPS III, BPS V, or Velocity Valley & Grand, and lost money on your investment. You are not a Class Member if you received interest payments equal to or greater than the amount of money you invested. Check your investment records or contact your broker to see if you have any eligible investments.

6. Are there exceptions to being included?

27. Yes. There are some individuals and entities who are excluded from the Settlement Class by definition. Excluded from the Settlement Class are (i) Defendants; (ii) any person who was an officer or director of Defendants; (iii) any firm or entity in which any Defendants have or had a controlling interest; (iv) the parents or subsidiaries of Defendants; (v) the legal representatives, agents, heirs, beneficiaries, successors-in-interest, or assigns of any excluded person or entity, in their respective capacity as such; and (vi) any persons or entities who or which exclude themselves by submitting a valid request for exclusion that is accepted by the Court in accordance with the procedures described in Question 11 below.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

28. In exchange for the Settlement and the release of the Released Claims against the Released Defendant Parties (*see* Question 10 below), Defendants have agreed to pay \$4,350,000 (U.S.), which,

along with any interest earned, will be distributed after deduction of Court-awarded attorneys' fees and litigation expenses, Notice and Administration Expenses, Taxes, any Service Awards, and any other fees or expenses approved by the Court (the "Net Settlement Fund"), to Settlement Class Members who send in valid and timely Claim Forms that are eligible for a payment.

8. How can I receive a payment?

29. To qualify for a payment from the Net Settlement Fund, you must submit a timely and valid Claim Form. A Claim Form is included with this Notice. **Please note that for most Class Members, the Claim Form you received has been pre-populated with the information you submitted in connection with the claims process conducted by the Receiver in the SEC Action. If you agree with that information, please sign and return the pre-populated Claim Form to receive a payment from the Settlement. If you disagree with that information, please provide corrected information along with supporting documentation to prove the amount of your claim.** You may also obtain blank (not pre-populated) Claim Forms from the website of the Claims Administrator: www.strategicclaims.net/BioProfit/. You can also request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at 1-866-274-4004, or by emailing the Claims Administrator at info@strategicclaims.net.

30. Please read the instructions in the Claim Form carefully. **If you have received a pre-populated Claim Form and you agree with that information, you simply need to sign the Claim Form and return it by mail to receive a payment from the Settlement. Otherwise,** fill out the Claim Form, include all the documents the form requests, sign it, and either mail it to the Claims Administrator using the address listed in the Claim Form or submit it by email at info@strategicclaims.net. Claim Forms must be **postmarked (if mailed) or received no later than January 4, 2023. You may also file a claim online at www.strategicclaims.net/BioProfit/.**

9. When will I receive my payment?

31. The Court will hold a Settlement Hearing on **January 11, 2023** to decide, among other things, whether to finally approve the Settlement. Even if the Court approves the Settlement, there may be appeals which can take time to resolve, perhaps more than a year. It also takes a long time for all of the Claim Forms to be accurately reviewed and processed. Please be patient.

10. What am I giving up to receive a payment and by staying in the Settlement Class?

32. If you are a Settlement Class Member and do not timely and validly exclude yourself from the Settlement Class, you will remain in the Settlement Class and that means that, upon the "Effective Date" of the Settlement, you will release all "Released Claims" against the "Released Defendant Parties."

(a) **"Released Claims"** means any and all claims and causes of action of every nature and description, whether known or Unknown (as defined below), contingent or absolute, mature or not mature, discoverable or undiscoverable, liquidated or unliquidated, accrued or not accrued, including those that are concealed or hidden, regardless of legal or equitable theory and whether arising under federal, state, common, or foreign law, that Plaintiffs or any other member of the Settlement Class (a) asserted in the Action; or (b) could have asserted in any forum that arise out of, are based upon, or relate to, directly or indirectly, in whole or in part: (1) the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Action and that relate to an investment in the Bio Profit Funds; or (2) Defendants' and/or their attorneys' defense or settlement of the Action and/or the claims alleged therein. For the avoidance of doubt, Released Claims does not include claims to enforce the Settlement.

(b) **“Released Defendant Parties”** means , collectively, (1) Wilmington; (2) each of Wilmington’s past, present, or future parents, holding companies, subsidiaries, affiliates, vendors, agents, successors, assignors, assignees, and/or assigns and their respective subsidiaries, affiliates, vendors, agents, successors, assignors, assignees, and/or assigns, and each of their respective present, former, or future officers, directors, shareholders, employees, representatives, consultants, accountants, and attorneys. Releasees will not include any retail brokers, investment advisors, broker-dealers, and/or investment advisory firms not affiliated with Wilmington, or any of its respective subsidiaries or affiliates, that may have recommended, suggested, brought to the attention of any investor, offered, and/or sold the Bio Profit Funds investments to investors.

(c) **“Unknown Claims”** means any and all Released Claims that Class Representatives or any other Settlement Class Member do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any and all Released Defendants’ Claims that Defendants do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement, including the decision to object to the terms of the Settlement or to exclude himself, herself, or itself from the Settlement Class. With respect to any and all Released Claims and Released Defendants’ Claims, the Parties stipulate and agree that, upon the Effective Date, Class Representatives and Defendants shall expressly, and each Settlement Class Member shall be deemed to have, and by operation of the Judgment or Alternative Judgment shall have, to the fullest extent permitted by law, expressly waived and relinquished any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or foreign law, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Class Representatives, all Settlement Class Members, or Defendants may hereafter discover facts, legal theories, or authorities in addition to or different from those which any of them now knows, suspects, or believes to be true with respect to the Action, the Released Claims, or the Released Defendant’s Claims, but Class Representatives and Defendants shall expressly, fully, finally, and forever settle and release, and each Settlement Class Member shall be deemed to have fully, finally, and forever settled and released, and upon the Effective Date and by operation of the Judgment or Alternative Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims and Released Defendant’s Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. Class Representatives and Defendants acknowledge, and all Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims and Released Defendants’ Claims was separately bargained for and was a material element of the Settlement.

33. The “Effective Date” will occur when an Order entered by the Court approving the Settlement becomes Final and is not subject to appeal. If you remain a member of the Settlement Class, all of the Court’s orders, whether favorable or unfavorable, will apply to you and legally bind you.

34. Upon the “Effective Date,” Defendants will also provide a release of any claims against Class Representatives and the Settlement Class arising out of or related to the institution, prosecution, or settlement of the claims in the Action.

EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS

35. If you want to keep any right you may have to sue or continue to sue Defendants and the other Released Defendant Parties on your own concerning the Released Claims, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself or “opting out.” **Please**

note: If you decide to exclude yourself, there is a risk that any lawsuit you may file to pursue claims alleged in the Action may be dismissed, **including because the suit is not filed within the applicable time periods required for filing suit.**

11. How do I exclude myself from the Settlement Class?

36. To exclude yourself from the Settlement Class, you must mail a signed letter stating that you request to be “excluded from the Settlement Class in *Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai v. Wilmington Trust Company, et al.*, No. 6:14-cv-06631 (W.D.N.Y.)” You cannot exclude yourself by telephone or e-mail. Each request for exclusion must also: (i) state the name, address, e-mail, and telephone number of the person or entity requesting exclusion; (ii) state the amount of each investment in the Bio Profit Funds, as well as the dates and prices of each such investment; (iii) state the amount received as interest payments for each investment in the Bio Profit Funds, as well as the dates and prices of each interest payment; (iv) state the amount of each sale of an investment in the Bio Profit Funds, as well as the dates and prices of each such sale; and (v) be signed by the Person requesting exclusion or an authorized representative. Alternatively, you can submit copies of documentation showing this information. Depending on the size of your holdings, you may be required to submit such documentation. A request for exclusion must be submitted so that it is **received no later than December 21, 2022** to: *Bio Profit Litigation, EXCLUSIONS, c/o Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063.*

37. This information is needed to determine whether you are a member of the Settlement Class and the amount of your potential losses. Your exclusion request must comply with these requirements in order to be valid. If you ask to be excluded, do not submit a Claim Form because you cannot receive any payment from the Net Settlement Fund. Also, you cannot object to the Settlement because you will not be a Settlement Class Member. However, if you submit a valid exclusion request, you will not be legally bound by anything that happens in the Action, and you may be able to sue (or continue to sue) Defendants and the other Released Defendant Parties in the future.

12. If I do not exclude myself, can I sue Defendant and the other Released Defendant Parties for the same thing later?

38. No. Unless you properly exclude yourself, you will give up any rights to sue Defendants and the other Released Defendant Parties for any and all Released Claims. If you have a pending lawsuit against any of the Released Defendant Parties, **speak to your lawyer in that case immediately.** You must exclude yourself from this Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **December 21, 2022.**

13. If I exclude myself, can I get money from the proposed Settlement?

39. No, only Settlement Class Members are eligible to recover money from the Settlement.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

40. Rosca Scarlato, LLC is Class Counsel in the Action and represents all Settlement Class Members. You will not be separately charged for these lawyers. The Court will determine the amount of attorneys’ fees and expenses, which will be paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

15. How will the lawyers be paid?

41. Class Counsel have been prosecuting the Action, along with other Plaintiffs' Counsel, on a contingent basis and have not been paid for any of their work. Class Counsel will apply to the Court, on behalf of themselves and all other Plaintiffs' Counsel, for an award of attorneys' fees of no more than 30% of the Settlement Fund, which will include any accrued interest. Class Counsel was assisted in this case by Labaton Sucharow LLP ("Labaton"), Goldman Scarlato & Penny, P.C., and Peiffer, Wolf, Carr & Kane, APLC (collectively with Class Counsel, "Plaintiffs' Counsel"). Class Counsel have agreed to share the awarded attorneys' fees with other Plaintiffs' Counsel, except as to Labaton as explained below, and payment to them will in no way increase the fees that are deducted from the Settlement Fund. Labaton will not be seeking attorney's fees in connection with the Action, but does intend to seek payment of its expenses which amounts are included in the expense number below. Class Counsel will also seek payment of litigation expenses incurred by Plaintiffs' Counsel in the prosecution and settlement of the Action of no more than \$700,000.00, plus accrued interest, and in addition will make an application for Service Awards for the Class Representatives of no more than \$96,000.00 in the aggregate to compensate them for their considerable efforts in representing the interests of the Settlement Class. Any attorneys' fees and expenses awarded by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

OBJECTING TO THE SETTLEMENT, THE PLAN OF ALLOCATION, OR THE FEE AND EXPENSE APPLICATION

16. How do I tell the Court that I do not like something about the proposed Settlement?

42. If you are a Settlement Class Member, you can object to the Settlement or any of its terms, the proposed Plan of Allocation of the Net Settlement Fund, and/or Class Counsel's Fee and Expense Application, and application for Service Awards. You may write to the Court about why you think the Court should not approve any or all of the Settlement terms or related relief. If you would like the Court to consider your views, you must file a proper objection within the deadline, and according to the following procedures.

43. To object, you must send a signed letter stating that you object to the proposed Settlement, the Plan of Allocation, the Fee and Expense Application, and/or the application for Service Awards in *Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai v. Wilmington Trust Company, et al.*, No. 6:14-cv-06631 (W.D.N.Y.). Your objection must state why you are objecting and whether your objection applies only to you, a subset of the Settlement Class, or the entire Settlement Class. The objection must also state: (i) the name, address, telephone number, and e-mail address of the objector and must be signed by the objector; (ii) contain a statement of the Settlement Class Member's objection or objections and the specific reasons for each objection, including any legal and evidentiary support (including witnesses) the Settlement Class Member wishes to bring to the Court's attention; and (iii) include information sufficient to prove the objector's membership in the Settlement Class, including the amount of investment in the BPS Funds as well as the dates of each such investment and sale. Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will be forever foreclosed from making any objection to the proposed Settlement, the Plan of Allocation, and/or Class Counsel's Fee and Expense Application, and application for Service Awards. Your objection must be filed with the Court **no later than December 21, 2022 and** be mailed or delivered to the following counsel so that it is **received no later than December 21, 2022:**

<u>Court</u>	<u>Class Counsel</u>	<u>Defendants' Counsel Representatives</u>
<p>Clerk of the Court United States District Court United States Courthouse 100 State Street Rochester, NY 14614</p>	<p>Rosca Scarlato, LLC Alan L. Rosca, Esq. Paul J. Scarlato, Esq. 161 Washington Street, Suite 1025 Conshohocken, PA 19428</p>	<p>Hodgson Russ LLP Melissa N. Subjeck, Esq. 140 Pearl Street, Suite 100 Buffalo, NY 14202</p>

44. You do not need to attend the Settlement Hearing to have your written objection considered by the Court. However, any Settlement Class Member who has complied with the procedures described in this Question 16 and below in Question 20 may appear at the Settlement Hearing and be heard, to the extent allowed by the Court. An objector may appear in person or arrange, at his, her, or its own expense, for a lawyer to represent him, her, or it at the Settlement Hearing.

17. What is the difference between objecting and seeking exclusion?

45. Objecting is telling the Court that you do not like something about the proposed Settlement, Plan of Allocation, or Class Counsel’s Fee and Expense Application, or application for Service Awards. You can still recover money from the Settlement. 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 from the Settlement Class, you have no basis to object because the Settlement and the Action no longer affect you.

THE SETTLEMENT HEARING

18. When and where will the Court decide whether to approve the proposed Settlement?

46. The Court will hold the Settlement Hearing on **January 11, 2023 at 2:00 p.m.**, in Courtroom 3 at Kenneth B. Keating Federal Building, 100 State Street, Rochester, NY 14614.

47. At this hearing, the Court will consider whether: (i) the Settlement is fair, reasonable, adequate, and should be approved; (ii) the Plan of Allocation is fair and reasonable, and should be approved; and (iii) the application of Class Counsel for an award of attorneys’ fees, payment of litigation expenses, and for a Service Award is reasonable and should be approved. The Court will take into consideration any written objections filed in accordance with the instructions in Question 16 above. We do not know how long it will take the Court to make these decisions.

48. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Settlement Class Members. If you want to attend the hearing, you should check with Class Counsel or visit the website www.strategicclaims.net/BioProfit/ beforehand to be sure that the hearing date and/or time has not changed.

19. Do I have to come to the Settlement Hearing?

49. No. Class Counsel will answer any questions the Court may have. But, you are welcome to attend at your own expense. If you submit a valid and timely objection, the Court will consider it and you do not have to come to Court to discuss it. You may have your own lawyer attend (at your own expense), but it is not required. If you do hire your own lawyer, he or she must file and serve a Notice of Appearance in the manner described in the answer to Question 20 below **no later than December 21, 2022**.

20. May I speak at the Settlement Hearing?

50. You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must, **no later than December 21, 2022**, submit a statement that you, or your attorney, intend to appear in “in *Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai v. Wilmington Trust Company, et al.*, No. 6:14-cv-06631 (W.D.N.Y.)” Persons who intend to present evidence at the Settlement Hearing must also include in their objections (prepared and submitted in accordance with the answer to Question 16 above) the identities of any witnesses they may wish to call to testify and any exhibits they intend to introduce into evidence at the Settlement Hearing. You may not speak at the Settlement Hearing if you exclude yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Settlement Hearing in accordance with the procedures described in this question and Question 16 above.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

51. If you do nothing and you are a member of the Settlement Class, you will receive no money from this Settlement and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being part of any other lawsuit against Defendants and the other Released Defendant Parties concerning the Released Claims. To share in the Net Settlement Fund, you must submit a Claim Form (*see* Question 8 above). To start, continue, or be a part of any other lawsuit against Defendants and the other Released Defendant Parties concerning the Released Claims, you must exclude yourself from the Settlement Class (*see* Question 11 above).

GETTING MORE INFORMATION

22. Are there more details about the Settlement?

52. This Notice summarizes the proposed Settlement. More details are contained in the Stipulation. You may review the Stipulation filed with the Court or other documents in the case during business hours at the Office of the Clerk of the United States District Court, Western District of New York, Kenneth B. Keating Federal Building, 100 State Street, Rochester, NY 14614. Subscribers to PACER, a fee-based service, can also view the papers filed publicly in the Action through the Court’s on-line Case Management/Electronic Case Files System at <https://www.pacer.gov>.

53. You can also get a copy of the Stipulation, and other documents related to the Settlement, as well as additional information about the Settlement by visiting the Claims Administrator’s website, www.strategicclaims.net/BioProfit/. You may also call the Claims Administrator toll free at (866) 274-4004 or write to the Claims Administrator at *Bio Profit Litigation*, c/o Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063. **Please do not call the Court with questions about the Settlement.**

PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND

23. How will my claim be calculated?

54. The Plan of Allocation (the “Plan of Allocation” or “Plan”) set forth below is the plan that is being proposed by Plaintiffs and Class Counsel to the Court for approval. The Court may approve this Plan of Allocation or modify it without additional notice to the Settlement Class. Any order modifying the Plan will be posted on the Claims Administrator website at: www.strategicclaims.net/BioProfit/.

55. The Settlement Amount and the interest it earns is the “Settlement Fund.” The Settlement Fund, after deduction of Court-approved attorneys’ fees and expenses, Service Awards, Notice and

Administration Expenses, Taxes, and any other fees or expenses approved by the Court is the “Net Settlement Fund.” The Net Settlement Fund will be distributed to members of the Settlement Class who timely submit valid Claim Forms that show a Recognized Claim according to the Plan of Allocation approved by the Court.

56. The objective of this Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses allegedly as a result of the asserted violations of law set forth in Plaintiffs’ Amended Complaint that survived Defendants’ motion to dismiss.

57. Under the proposed Plan of Allocation, the Claims Administrator will first calculate each Authorized Claimant’s Alleged Loss.

58. The Alleged Loss shall mean the principal amount each Authorized Claimant paid for their BPS Fund investments, less any amounts received in return as either payments of interest or return of principal.

59. The Claims Administrator will then calculate each Authorized Claimant’s recovery under the Settlement by multiplying the Net Settlement Fund by a fraction, (a) the numerator of which is the Class Member’s Alleged Loss and (b) the denominator of which is the sum of each and every claiming Class Member’s Alleged Loss.

60. The Plan is not a part of or a condition of approval of the Settlement. Under the Agreement, the Net Settlement Fund may be distributed in accordance with the proposed Plan or such other plan as the Court may approve.

61. The calculations made pursuant to the Plan are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial. The computations under the Plan of Allocation are only a method to weigh the claims of Authorized Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund. An individual Settlement Class Member’s recovery will depend on, for example: (a) the total number and value of claims submitted; (b) how much interest a Settlement Class Member received in return, if any; and (c) whether and when the claimant sold his, her, or its investment(s) in the BPS Funds.

62. Because the Net Settlement Fund is less than the total losses alleged to be suffered by Settlement Class Members, the formulas described below for calculating Recognized Losses are not intended to estimate the amount that will actually be paid to Authorized Claimants. Rather, these formulas provide the basis on which the Net Settlement Fund will be distributed among Authorized Claimants on a *pro rata* basis. An Authorized Claimant’s “Recognized Claim” shall be the amount used to calculate the Authorized Claimant’s *pro rata* share of the Net Settlement Fund. The *pro rata* share shall be the Authorized Claimant’s Recognized Claim divided by the total of the Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

63. Defendants, their respective counsel, and all other Released Defendant Parties will have no responsibility or liability for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation or the payment of any claim. Plaintiffs, Class Counsel, and anyone acting on their behalf, likewise will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement.

CALCULATION OF RECOGNIZED LOSS AMOUNTS

64. The Claims Administrator will calculate a “Recognized Loss Amount,” as set forth below, for each investment in the BPS Funds that is listed in the Claim Form and for which adequate documentation is provided. To the extent that the calculation of a Claimant’s Recognized Loss Amount results in a negative number, that number shall be set to zero.

65. For each investment in the BPS Funds, an “Out of Pocket Loss” will be calculated. Out of Pocket Loss is defined as the purchase price (excluding all fees, taxes, and commissions) minus the sale price (excluding all fees, taxes, and commissions). To the extent that the calculation of the Out of Pocket Loss results in a negative number, that number shall be set to zero.

66. The sum of a claimant's Recognized Loss Amounts will be the claimant's "Recognized Claim."

ADDITIONAL PROVISIONS

67. The Net Settlement Fund will be allocated among all Authorized Claimants whose prorated payment is \$10.00 or greater. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and a distribution will not be made to that Authorized Claimant.

68. Payment according to this Plan of Allocation will be deemed conclusive against all Authorized Claimants. Recognized Claims will be calculated as defined herein by the Claims Administrator and cannot be less than zero.

69. Distributions will be made to eligible Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. If there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of initial distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible and economical after payment of Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, if any, redistribute such balance among Authorized Claimants who have cashed their initial checks in an equitable and economic fashion. Once it is no longer feasible or economical to make further distributions, any balance that still remains in the Net Settlement Fund after re-distribution(s) and after payment of outstanding Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, and a Service Award, if any, shall be contributed to the Council of Institutional Investors, or such other non-profit and non-sectarian organization(s) approved by the Court.

70. Payment pursuant to the Plan of Allocation or such other plan as may be approved by the Court shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Plaintiffs' Counsel, Defendants, Defendants' respective counsel, the Claims Administrator, or any agent designated by Class Counsel, arising from determinations or distributions to claimants made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. Plaintiffs, Defendants, their respective counsel, and all other Released Parties shall have no responsibility for or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation or the determination, administration, calculation, or payment of any Claim Form or non-performance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund or any losses incurred in connection therewith.

71. Each claimant is deemed to have submitted to the jurisdiction of the United States District Court for the Western District of New York with respect to his, her, or its claim.

SPECIAL NOTICE TO SECURITIES BROKERS AND NOMINEES

72. If you are aware of the names and contact information of persons who invested in the BPS Funds, you are requested to **WITHIN TEN (10) CALENDAR DAYS OF YOUR RECEIPT OF THE NOTICE, EITHER:** (a) provide to the Claims Administrator the name, last known address, and/or email address of each person or entity who invested in the BPS Funds; or (b) request copies of this Notice and the Claim Form from the Claims Administrator, which will be provided to you free of charge, and **WITHIN TEN (10) CALENDAR DAYS** of receipt, mail the Notice and Claim Form directly to all the beneficial owners of those securities. You are entitled to reimbursement from the Settlement Fund of your reasonable out-of-pocket expenses incurred in providing notice to beneficial owners in an amount not to exceed \$0.05 plus postage, at the current pre-sort rate used by the Claims Administrator per Notice and Claim Form you mail; or \$0.05 per name, mailing address, and email address (to the extent available) provided to the Claims Administrator. Expenses will be paid upon request and submission of appropriate supporting documentation and timely compliance with the above directives. Any disputes as to the

reasonableness or documentation of expenses incurred will be subject to review by the Court. All communications concerning the foregoing should be addressed to the Claims Administrator:

Bio Profit Litigation
c/o Strategic Claims Services
P.O. Box 230
600 N. Jackson Street, Suite 205
Media, PA 19063

Dated: October 11, 2022

BY ORDER OF THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Bio Profit Litigation
c/o Strategic Claims Services
600 North Jackson Street, Suite 205
Media, PA 19063

Toll Free Number: 1-866-274-4004
Website: www.strategicclaims.net/bioprofit/
Email: info@strategicclaims.net
Deadline to File a Claim: **January 4, 2023**

Mail ID:
Name
Address
City State Zip

CLAIM FORM AND RELEASE

DEADLINE FOR FILING THE CLAIM FORM: This Claim Form must be postmarked for mailing no later than **January 4, 2023**. The Claim Form can be mailed to ***Bio Profit Litigation, c/o Strategic Claims Services, 600 North Jackson Street, Suite 205, Media, Pennsylvania 19063***, or scanned and emailed to info@strategicclaims.net.

Failure to timely submit a claim shall result in a waiver of any rights to participate in any distribution of proceeds from the settlement in the action called *Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai v. Wilmington Trust Company, et al.*, Civil Action No. 14 CV 6631 (the “Class Action”), currently pending in the United States District Court of the Western District of New York (the “Settlement”).

Before completing this Claim Form, please read the Notice of Pendency of Class Action, Proposed Settlement, Motion for Attorneys’ Fees and Expenses, and Service Awards (“Notice”).

Providing false, misleading or incomplete information/documentation may delay any disbursement from this Settlement and could jeopardize your right to a distribution.

DEFINITIONS

1. “Settlement Class” or “Settlement Class Member” means all persons and entities that purchased or acquired the Bio Profit Funds and were allegedly damaged thereby. Excluded from the Settlement Class are (i) Defendants; (ii) any person who was an officer or director of Defendants; (iii) any firm or entity in which any Defendants have or had a controlling interest; (iv) the parents or subsidiaries of Defendants; (v) the legal representatives, agents, heirs, beneficiaries, successors-in-interest, or assigns of any excluded person or entity, in their respective capacity as such; and (vi) any persons or entities who or which exclude themselves by submitting a valid request for exclusion that is accepted by the Court.

2. “Defendants” means Wilmington Trust Company and/or Wilmington Trust, National Association.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai v. Wilmington Trust Company
Case No. 6:14-cv-06631
Must Be Postmarked No Later Than:
January 4, 2023

Please Type or Print

PART I: CLAIMANT IDENTIFICATION

If the name and address information printed on the reverse side of this form is correct, you do NOT need to provide your contact information in this section. If the name and address information on the reverse side is incorrect, you must check this box and provide your correct contact information below:

- My name and address information is NOT correct. Please note, if you need to change the name on this claim, you **MUST** provide documentation that the new named claimant is eligible to receive the award on behalf of the Beneficial Owner.

Beneficial Owner's Name (First, Middle, Last)

Record Owner's Name (First, Middle, Last) (if different from beneficial owner listed above)

Street Address

City

State

Zip Code

Foreign Province

Foreign Country

Social Security Number

Tax ID

Telephone (work)

Telephone (home)

Email

PART II: SCHEDULE OF INVESTMENTS IN BIO PROFIT FUNDS

The following information, if filled, comes from the claim form you submitted to the Receiver in the SEC Action and forms the basis of this claim:

Beneficial Owner Name: _____

Please check **ONE** box:

- The investment information listed above on this form regarding the Bio Profit Funds is correct. If you check this box, you do not need to provide any additional support.

- The investment information listed above on this form regarding the Bio Profit Funds is NOT correct OR there is no information listed above. **PLEASE NOTE, if You select this box, you must provide documentation to prove that the information provided is incorrect, such as your brokerage or bank statement showing your investments in Bio Profit Funds. Failure to provide this information may result in the denial of your claim.**

YOU MUST READ AND SIGN THE RELEASE ON PAGE 5.

PART III: SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Claim Form and Release under the terms of the Stipulation and Agreement of Settlement dated as of August 12, 2022 described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Western District of New York, with respect to my (our) claim as a Settlement Class Member (as defined above) and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Litigation. I (We) agree to furnish additional information to the Claims Administrator or Plaintiffs' Class Counsel to support this claim if required to do so. I (We) have not submitted any other claim covering the investment or contribution to the Bio Profit Funds and know of no other Person having done so on my (our) behalf.

PART IV: RELEASE AND CERTIFICATION

1. Class Representatives and the Settlement Class do hereby forever release and discharge the Defendants from any and all claims and causes of action of every nature and description, whether known or Unknown (as defined in the Notice), contingent or absolute, mature or not mature, discoverable or undiscoverable, liquidated or unliquidated, accrued or not accrued, including those that are concealed or hidden, regardless of legal or equitable theory and whether arising under federal, state, common, or foreign law, that Plaintiffs or any other member of the Settlement Class (a) asserted in the Action; or (b) could have asserted in any forum that arise out of, are based upon, or relate to, directly or indirectly, in whole or in part: (1) the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Action and that relate to an investment in the Bio Profit Funds; or (2) Defendants' and/or their attorneys' defense or settlement of the Action and/or the claims alleged therein.

2. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release, relinquish and discharge, all of the released claims against the Defendants and each of Wilmington's past, present, or future parents, holding companies, subsidiaries, affiliates, vendors, agents, successors, assignors, assignees, and/or assigns and their respective subsidiaries, affiliates, vendors, agents, successors, assignors, assignees, and/or assigns, and each of their respective present, former, or future officers, directors, shareholders, employees, representatives, consultants, accountants, and attorneys.

3. This release shall be of no force or effect unless and until the Court issues a Final Judgment approving the Settlement Agreement and it becomes effective on the Effective Date.

4. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

5. I (We) hereby warrant and represent that I (we) have reviewed the investment information above and/or included transaction information about all of my (our) investments in Bio Profit Funds covered by the Claim Form and Release, and any sales of my (our) investments in Bio Profit Funds.

6. UNDER THE PENALTY OF PERJURY, I (WE) CERTIFY THAT:

(a) the number shown on this form is the correct social security/tax identification number; and

(b) I (we) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because: (i) I am (we are) exempt from backup withholding; or (ii) I (we) have not been notified by the Internal Revenue Service that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends; or (iii) the Internal Revenue Service has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, you must cross out b. above.

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

I (We) declare and certify that I (we) understand that, by executing this Release and Certification, I (we) are specifically releasing and giving up forever all of the Released Claims against the Released Parties.

I (We) declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ day of _____, in _____,
(Month/Year) (City)

(State/County)

(Sign your name here)

(Sign your name here – joint owner)

(Type or print your name here)

(Type or print your name here)

(Capacity of person(s) signing, *e.g.*,
Beneficial Purchaser, Executor,
Administrator, Trustee, etc.)

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and certification.
2. Remember to attach supporting documentation, if needed.
3. Do not send original documents of any kind.
4. Keep a copy of your Claim Form and Release form and supporting documentation (if needed) for your records.
5. If you desire an acknowledgment of receipt of your Claim Form and Release form, please send it Certified Mail, Return Receipt Requested.
6. If you move, please send us your new address.

美國地方法院 紐約西區

劉曜毅、謝東宏和蔡秋寶個人及所有其他人代表

原告

民事編號6:14-cv-06631-EAW-MJP

威明頓信託公司及威明頓信託全國協會

被告

集體訴訟未決通知、擬議和解、律師費和開支議動以及服務費用

如果您將資金投資於Velocity Investment Group, Inc. 提供的 Bio Profit Funds BPS I BPS II BPS III BPS V 或 Velocity Valley & Grand)，並因您的投資而虧損(“類別”)，您可能有權從集體訴訟和解中獲得理賠。

聯邦法院批准了本通知。這不是律師的請求。

- 本通知的目的是告知您該集體訴訟(“訴訟”)的未決、訴訟的擬議和解(“和解”)¹以及法院將舉行的聽證會考慮：(i) 和解是否應獲批准；(ii) 是否應批准擬議和解收益分配計劃(“分配計劃”)；(iii) 集體律師的律師費和開支申請，以及(iv) 集體律師向集體代表申請服務費用(見下文第3和第9頁) 本通知描述了您可能擁有的重要權利，以及如果您希望參與和解、希望反對或希望被排除在和解集體之外，您必須採取哪些步驟。
- 如果法院批准，在扣除律師費和開支、法院授予的任何服務裁決與通知行政部門後，和解金額認可為和解集體成員總共435 萬美元的現金，外加賺取的利息費用和稅收。
- 和解解決了法院指定的集體代表劉曜毅、謝東宏和蔡秋寶(統稱“原告”或“集體代表”) (定義見下文)對威明頓信託公司及威明頓信託全國協會(“威明頓”或“被告”)提出訴訟理賠。避免了繼續訴訟的成本和風險；向符合條件的投資者付款；免除被免責的被告方(定義見下文)的責任。

如果您是和解集體成員，則無論您作為或不作為，您的合法權利都將受到本和解的影響。請仔細閱讀本通知。

¹ 和解條款載於2022年8月12日的和解規定和協議(“規定”)，可在 www.strategicclaims.net/BioProfit/ 上查看。本通知中未定義的所有大寫術語與規定中定義的含義相同。

您在本和解中的法律權利和選擇權	
在2023年1月4日之前提交索賠表	獲得付款的唯一方法。有關詳細信息，請參閱下面的問題 8
在2022年12月21日之前將自己排除在和解之外	不收錢。這是唯一的選擇，假設您的理賠及時提出，您可能會提起或參與針對被告和/或其他免責被告方關於免責理賠的任何其他訴訟。有關詳細資訊，請參閱下面的問題 11
2022年12月21日之前的目的	寫信給法院，說明您不喜歡和解、分配計劃和/或集體律師的費用和開支申請以及服務費用的原因。如果您反對，您仍將是和解集體的成員。有關詳細資訊，請參閱下面的問題 16
參加2023年1月11日的聽證會，並提交一份在2022年12月21日之前出庭的意向通知	要求在和解聽證會上就和解問題在法庭上發言。有關詳細資訊，請參閱下面的問題 20
不做任何事	不收錢。放棄權利。

- 本通知中解釋了這些權利和選擇權以及行使它們的期限。
- 負責本案的法院仍需決定是否批准和解。如果法院批准和解並且在任何上訴得到解決後，將向所有及時提交有效理賠表的和解集體成員付款。請耐心等待。

通知摘要

和解條款摘要

1. 威明頓將支付435萬美元(“和解基金”)來解決原告和集體的理賠。和解集體的每個成員僅限於和解基金，用於滿足針對被免責被告方的所有免責理賠

和解原因

2. 對於原告，和解的主要原因是和解集體的保證現金利益。必須將這種好處與能否在有爭議的類別認證動議中倖存下來的不確定性進行比較；證明經修訂的訴狀中指控，尤其是關於威明頓對Bio Profit系列計劃的實際了解和/或 Michael Wang 違反信託義務的情況；通過試用獲得類別認證並保持認證；法院可能批准部分或全部被告可能提出的判決動議的風險；在審判和上訴後更大程度的恢復的不確定性；的風險，尤其是在這樣的複雜訴訟中；以及此類訴訟固有的困難和延誤(包括任何審判和上訴)

3. 對於否認所有不法行為或責任的指控並否認和解集體成員受到損害的被告而言，達成和解的主要原因是結束進一步訴訟的負擔、費用、不確定性和風險。

尋求的律師費和費用聲明

4. 集體法律顧問將代表自己和其他原告律師向法院申請從和解基金中支付律師費，金額不超過和解基金的30%，其中包括任何應計利息。集體律師還將申請支付原告律師在提起訴訟時發生的訴訟費用，金額不超過700,000美元，外加應計利息，併申請為集體代表提供服務費用，以補償他們為代表訴訟所做的努力。集體的利益總額不超過96,000美元。費用和費用申請的副本將在向法院提交

後發佈在 www.strategicclaims.net/BioProfit/ 上。

鑑定律師代表

5. 和解集體代表律師為Alan Rosca 和 Paul Scarlato, Rosca Scarlato, LLC, 161 Washington Street, Suite 1025, Conshohocken, PA 19428, (888) 998-0530, www.rscounsel.law

6. 有關本訴訟、和解及本通知的更多資訊，請聯繫 Bio Profit訴訟，轉交 Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063 或 info@strategicclaims.net 或網站 www.strategicclaims.net/BioProfit/

請不要就和解問題打電話給法庭

基本資訊

1為什麼我會收到此通知？

7. 您或您的家人可能已投資於Velocity Investment Group, Inc. 提供的Bio Profit 基金(BPS I、BPS II、BPS III、BPS V 或 Velocity Valley & Grand)，並因此投資虧損 收到本通知並不意味著您是和解集體的成員或您將有權收到付款。如果您希望有資格獲得付款，您必須提交與本通知一起分發的理賠表。請參閱下面的問題 5 和 8。

8. 法院指示將本通知發送給和解集體成員，因為在法院決定是否批准和解之前，他們有權了解該集體訴訟的擬議和解以及他們的所有選擇。

9. 負責本案的法院為美國紐約西區地方法院，案件名稱為 劉曜毅、謝東宏和蔡秋寶控訴威爾明頓信託公司，編號No. 6:14-cv-06631。該訴訟被分配給美國首席地區法官Honorable Elizabeth A. Wolford審判。

2這個案子是關於什麼的，到目前為止發生了什麼？

10. 威爾明頓是一家提供財富管理和信託服務的美國金融機構。原告聲稱威爾明頓擔任了每個BPS系列基金的託管代理和託管人。

11. 2014年11月11日，原告劉曜毅、謝東宏和蔡秋寶向美國紐約西區地方法院提起集體訴訟，指控威爾明頓在知情的情況下協助Michael Wang 通過他的公司 Velocity Investment Group, Inc.在2005年6月到 2013年10月期間(Bio Profit"計劃")策劃了一個龐氏騙局。原告的訴狀主張：1) 協助和教唆欺詐；2) 幫助和教唆轉換 3) 協助和教唆違反信託義務；4) 違反信託義務；5) 重大過失。

12. 威爾明頓提出了駁回原告投訴的動議，原告於2015年5月22日提交了一份修正後的投訴作為回應。

13. 威爾明頓動議駁回經修訂的訴狀，法院駁回了威爾明頓關於原告協助和教唆違反信託義務、重大過失和違反信託義務索賠的動議，並批准了威爾明頓關於原告關於協助和教唆欺詐和教唆的索賠的動議 協助和教唆轉換，從而駁回這些

主張。

14. 2015年5月22日修訂訴狀是訴訟中的有效投訴。

15. 2017年10月23日，威爾明頓提交了一份答覆，否認修訂後的訴狀中提出的所有指控，並於2017年11月14日提交了一份修訂後的答覆

16. 2017年11月15日，雙方根據法院的替代性爭議解決計劃參加了法院命令的調解。那次調解沒有成功。

17. 集體代表已通過原告律師對作為訴訟標的理賠、抗辯以及潛在事件和交易進行了強有力的調查，如下所述。雙方就原告的理賠和威爾明頓的辯護進行了實質性發現，包括交換數萬頁的文件，在標題為美國證券交易委員會控訴Yin Nan Michael Wang的訴訟中，從法院指定的接管人那裡獲得數百萬頁的文件，案件編號CV 13-7553 (C.D. Cal. Oct. 15, 2013) (“SEC 訴訟”)，對每位原告和被告的證人進行證詞。集體代表從台灣前往紐約水牛城接受他們的證詞。雙方還通過動議實踐和調解陳述對本案中的許多問題進行了簡報。

18. 2020年2月13日，雙方在司法仲裁和調解服務公司由Michael D. Young 面前參加了一整天的獨立調解，以試圖解決該訴訟。雙方當時無法解決該訴訟。

19. 2021年3月23日，法院發布命令，指示雙方需在Honorable Mark W. Pederson面前舉行的和解會議。(ECF 199)

20. 2021年4月30日，雙方參加了Pederson法官主持的和解會議。(ECF 203)。雙方當時無法解決訴訟

21. 雙方在 2021 年 11 月重新獲得Young的協助，以恢復和解討論。基於雙方對訴狀事項相關事實和法律的發現、調查和評估，以及在Young面前的調解和進一步談判 雙方已同意根據本協議的規定解決本次訴訟。

3為什麼這是集體訴訟？

22. 在集體訴訟中，一個或多個個人或實體(在本案中劉曜毅、謝東宏和蔡秋寶為集體代表)代表有類似主張的個人和實體提起訴訟。這些人和實體一起是一個“集體” 每個都是“集體成員”。集體訴訟允許對許多個人的類似理賠進行裁決，這些理賠在經濟上可能太小而無法作為個人訴訟提出。法院同時為所有集體成員解決問題，但那些將自己排除在集體之外或“退出”的人除外。

4和解的原因是什麼？

23. 法院最終沒有做出有利於原告或被告的裁決。相反地，雙方同意達成和解。原告和集體律師認為，在訴訟中提出的主張是有道理的。然而，他們承認通過審判和上訴提出理賠所需的持續訴訟費用和時間，以及確定責任的困難。例如，被告提出了一些論據和辯護(他們可能會在反對證明集體的動議、在即決判決的肯定動議中以及在審判中提出)反對原告的指控，例如本案不符合訴訟類別認證的嚴格標準，原告無法證明威爾明頓實際知道Bio Profit計劃是龐氏騙局，或者

威明頓實質上協助了該計劃，或者威明頓的行為造成Bio Profit投資者的損失原因 此外，預計威明頓將提出一個論點，即集體成員與 Velocity 之間的關係是借款人/貸方的關係，因此Velocity及其經理Michael Wang不對 BPS 投資者負有信託責任。在沒有和解的情況下，當事方將就這些問題中的每一個問題提供事實和專家證詞，並且法院或陪審團很可能會以不利的方式解決這些問題，而不利於原告和和解集體。集體代表和集體律師認為，擬議的和解是公平、合理和充分的，並且符合和解集體的最佳利益。

24. 被告已否認並將繼續否認原告在訴訟中提出的每一項理賠，包括修訂後的投訴中的所有理賠。儘管如此，被告得出結論認為，繼續進行訴訟將是曠日持久且代價高昂的，並已考慮到任何訴訟所固有的不確定性和風險，尤其是像本訴訟這樣的複雜案件，並認為和解符合被告的最佳利益。

誰來結算

5我如何知道我是否屬於和解集體？

25. 就擬議和解而言，法院指示符合以下描述的每個人都是和解集體成員並受和解約束，除非他們是被排除在外的人(請參閱下面的問題6)或採取措施將自己排除在和解集體之外(見下面的問題 11)

所有投資Bio Profit計劃並因此受到損害的個人和實體

26. 如果您將資金投資於 Bio Profit基金、BPS I、BPS II、BPS III、BPS V 或 Velocity Valley & Grand 中的任何一個，並且您的投資出現虧損，您就是和解集體成員。如果您收到的利息支付等於或大於您投資的金額，則您不是集體成員。檢查您的投資記錄或聯繫您的經紀人，看看您是否有任何符合投資條件。

6是否有例外情況？

27. 是的。根據定義，有些個人和實體被排除在和解集體之外。和解集體被排除在外的有 (i)被告；(ii)任何曾擔任被告高級職員或董事的人；(iii)任何被告擁有控股權益的任何公司或實體；(iv)被告的母公司或子公司；(v)任何被排除在外的個人或實體的法定代表人、代理人、繼承人、受益人、利益繼承人或受讓人，以其各自的身份；(vi)任何個人或實體通過提交法院根據以下問題 11 所述程序接受的有效排除請求來排除自己。

和解利益

7和解協議提供什麼？

28. 作為和解和免除對被免責被告方的免責理賠(見下面的問題10)的交換，被告同意支付 4,350,000 美元，連同所賺取的任何利息，扣除法院裁定的金額後分配律師費和訴訟費用、通知和管理費用、稅款、任何服務裁決以及法院批准的任何其他費用或開支(“淨和解基金”)，支付給提交有效且及時的理賠表的和解集體成員 有資格獲得付款。

8我怎樣才能收到付款？

29. 要獲得淨和解基金付款的資格，您必須及時提交有效的理賠表。本通知隨附一份理賠表。請注意，對於大多數集體成員，您收到的理賠表已預先填寫了您

提交給接管人在 SEC 訴訟中進行的理賠流程相關的資訊。如果您同意該資訊，請簽署並返回預先填寫的理賠表以接收和解付款。如果您不同意該資訊，請提供更正的資訊以及證明文件以證明您的理賠金額。您也可以從理賠行政人員的網站獲取空白(未預先填寫)理賠表：www.strategicclaims.net/BioProfit/。您也可以通過撥打免費電話 1-866-274-4004 [或向理賠行政人員發送電子郵件 info@strategicclaims.net](mailto:info@strategicclaims.net)

30. 請仔細閱讀理賠表中的說明 如果您已收到預先填寫的理賠表並且您同意該資訊，您只需簽署理賠表並通過郵件寄回即可從和解中獲得付款。否則，填寫理賠表，包括表格要求的所有文件 簽名，然後使用理賠表中列出的地址將其郵寄給理賠行政人員，或通過電子郵件提交至 info@strategicclaims.net。理賠表必須在2023年1月4日之前蓋上郵戳(如果郵寄)或收到。您也可以在此 www.strategicclaims.net/BioProfit/ 在線提交理賠表。

9我什麼時候會收到我的付款？

31. 法院將於2023年1月11日舉行和解聽證會，除其他事項外，決定是否最終批准和解。即使法院批准了和解，也可能需要時間來解決上訴，可能需要一年多的時間。準確審查和處理所有索賠表也需要很長時間。請耐心等待。

10為了獲得付款並留在和解集體中，我放棄了什麼？

32. 如果您是和解集體成員並且沒有及時有效地將自己排除在和解集體之外，您將繼續留在和解集體中，這意味著，在和解的“生效日期”，您將解除所有“已解除的理賠” 反對 “被釋放的被告方”

(a) “已豁免的理賠”意指各種性質和描述任何和所有理賠及訴訟的因由，無論是已知的還是未知的(定義見下文)、或可能發生的或絕對的、成熟的或未成熟的、可發現的或不可發現的、已清算的或未清算的、應計的或未應計的，包括那些隱瞞或隱藏，無論法律或衡平法理論如何，以及是否根據聯邦、州、普通法或外國法律產生，原告或和解集體的任何其他成員 (a) 在訴訟中主張；或 (b) 可以在任何法庭上直接或間接地、全部或部分地訴說、基於或涉及 (1) 訴訟中涉及、闡述或提及的與Bio Profit基金投資有關的指控、交易、事實、事項或事件、陳述或遺漏；或 (2) 被告和/或其律師對訴訟和/或其中指控的理賠的辯護或和解。為免生疑問，免責理賠不包括強制執行和解的理賠。

(b) “被豁免的被告方”意指，集合 (1) 威明頓；(2) 威明頓過去、現在或未來的母公司、控股公司、子公司、關聯公司、供應商、代理人、繼任者、轉讓人、受讓人和/或受讓人及其各自的子公司、關聯公司、供應商、代理人、繼任者、轉讓人、受讓人和 / 或受讓人，以及他們各自的現任、前任或未來官員、董事、股東、僱員、代表、顧問、會計師和律師。發布者不包括任何零售經紀人、投資顧問、經紀自營商和/或不隸屬於威明頓的投資諮詢公司，或其任何子公司或附屬公司，這些公司可能已經推薦、建議、提請任何投資者注意，向投資者提供和/或出售 Bio Profit 基金投資。

(c) “未知的理賠”意指集體代表或任何其他和解集體成員在獲釋被告方獲釋時不

知道或懷疑存在對其有利的任何及所有獲釋理賠，以及任何及所有獲釋被告的理賠 被告人在獲釋原告方獲釋時不知道或懷疑存在對他、她或它有利的情況，如果他、她或它知道，這可能會影響他、她或它關於和解的決定，包括決定反對和解條款或將他本人或自己排除在和解集體之外。對於任何及所有免責理賠和免責被告的理賠，雙方約定並同意，自生效之日起，集體代表和被告應明確表示，每個和解集體成員均應被視為擁有，並且根據判決的執行或替代判決應在法律允許的最大範圍內明確放棄和放棄美國任何州或領土的任何法律或外國法律或普通法原則所賦予的任何和所有規定、權利和利益，與 加州民法

§1542相似、可比或等效 其中規定：

一般免責不適用於債權人或免責方在執行免責時不知道或懷疑存在對他或她有利的理賠，並且如果他或她知道，將對他或她產生重大影響與債務人或免責方的和解。

集體代表、所有和解集體成員或被告今後可能會發現除了或不同於他們中的任何人現在知道、懷疑或相信關於訴訟、已免除理賠的事實、法律理論或權威之外的事實、法律理論或權威，或被免責的被告的理賠，但集體代表和被告應明確、完全、最終和永久地和解，並且每個和解集體成員應被視為已完全、最終、永久地和解，並且在生效日期通過判決或替代判決的實施，應已完全、最終和永久地解決和解 除任何和所有適用的免責理賠和免責被告的理賠，而不考慮隨後發現或存在此類不同或額外的事實、法律理論或權威。集體代表和被告承認，並且所有和解集體成員依法應被視為已承認，在免責理賠和免責被告理賠的定義中包含“未知理賠”是單獨協商的，並且是一個重要解決方案。

33. 當法院下達的批准和解的命令成為最終命令且不得上訴時，即為“生效日期” 如果您仍然是和解集體的成員，法院的所有命令，無論是有利的還是不利的，都將適用於您並具有法律約束力。

34. 在“生效日期”後，被告還將解除針對集體代表和和解集體因訴訟中的理賠的設立、起訴或和解而產生或與之相關的任何理賠。

將自己排除在和解類別之外

35. 如果您想保留您可能不得不就免責索賠自行起訴或繼續起訴被告和其他免責被告方的任何權利，則您必須採取措施將自己從和解集體中除名。這稱為排除您自己或“選擇退出” **請注意：**如果您決定排除自己，您為追究訴訟中指控的理賠而提起的任何訴訟都有可能被駁回，**包括因為未在提起訴訟所需的適用期限內提起訴訟。**

11我如何將自己排除在和解集體之外？

36. 要將自己排除在和解集體之外，您必須郵寄一封簽名信，說明您要求“從劉曜毅、謝東宏和蔡秋寶控訴威明頓信託公司 編號6:14-cv-06631和解集體中排除” 您不能通過電話或電子郵件將自己排除在外。每個排除請求還必須 (i) 說明請求排除的個人或實體的姓名、地址、電子郵件和電話號碼；(ii) 說明Bio Profit基金的每項投資金額，以及每項此類投資的日期和價格；(iii) 說明Bio Profit基金每項投資的利息支付金額，以及每筆利息支付的日期和價格；(iv) 說明 Bio

Profit基金投資的每次銷售金額，以及每次此類銷售的日期和價格；(v) 由請求排除的人或授權代表簽署。或者，您可以提交顯示此資訊的文件副本。根據您的資產規模，您可能需要提交此類文件。必須於**2022年12月21日之前**收到提交排除請求：Bio Profit訴訟禁止轉交Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063。

37. 需要此資訊來確定您是否是和解集體的成員以及您的潛在損失金額。您的排除請求必須符合這些要求才能有效。如果您要求被排除在外，請不要提交理賠表，因為您無法從淨和解基金收到任何款項。此外，您不能反對和解，因為您不是和解集體成員。但是，如果您提交有效的排除請求，您將不受訴訟中發生的任何事情的**法律約束**，並且您將來可能能夠起訴（或繼續起訴）被告和其他被免責的被告方。

12如果我不排除自己，我以後可以就同一件事起訴被告和其他被釋放的被告方嗎？

38. 不可以。除非您適當地排除自己，否則您將放棄就任何和所有免責理賠起訴被告和其他免責被告方的任何權利。如果您對任何被釋放的被告方有未決訴訟，**請立即與您的律師聯繫**。您必須將自己排除在和解集體之外才能繼續您自己的訴訟。請記住，排除期限為**2022年12月21日**

13如果我將自己排除在外，我可以從提議的和解中獲得資金嗎？

39. 不可以，只有和解集體成員才有資格從和解中追回款項

您的代表律師

14在這種情況下我有律師嗎？

40. Rosca Scarlato, LLC 是訴訟中的集體法律顧問，代表所有和解集體成員。您不會為這些律師單獨付費。法院將確定律師費和開支的數額，這些費用將從和解基金中支付。如果您想由自己的律師代理，您可以自費聘請一名律師。

15律師將如何獲得報酬？

41. 集體律師一直在與其他原告律師一起在或有條件的基礎上起訴該訴訟，但他們的任何工作都沒有得到報酬。集體律師將代表他們自己和所有其他原告的律師向法院申請賠償，以不超過和解金的30%為律師費，其中包括任何應計利息。集體律師在本案中得到了 Labaton Sucharow LLP (“Labaton”)、Goldman Scarlato & Penny, P.C. 和 Peiffer, Wolf, Carr & Kane, APLC(與集體律師合稱“原告律師”)的協助。集體律師已同意與其他原告律師分攤所獲律師費，但下文解釋的 Labaton 除外，並且向他們支付的款項絕不會從和解基金中扣除的費用中增加。Labaton 不會就該訴訟尋求律師費，但打算尋求支付其費用，這些費用包含在下面的費用數字中。集體律師還將要求支付原告律師在起訴和解決訴訟中產生的訴訟費用不超過700,000美元，外加應計利息，此外，還將為集體代表申請服務費用，金額不超過96,000美元，以補償他們在代表和解集體利益方面付出的巨大努力。法院判給的任何律師費和開支將從和解基金中支付。和解集體成員不對任何此類費用或開支承擔個人責任。

反對和解、分配計劃或費用和費用申請

16我如何告訴法院我不喜歡擬議的和解？

42. 如果您是和解集體成員，您可以反對和解或其任何條款、擬議的淨和解基金分配計劃和/或集體律師的費用和開支申請以及服務費用申請。您可以寫信給法院，說明您認為法院不應批准任何或所有和解條款或相關救濟的原因。如果您希望法院考慮您的意見，您必須在截止日期內提出適當的反對，並按照以下程序。

43. 關於反對，您必須送一封簽名信，說明您反對關於劉曜毅、謝東宏和蔡秋寶控訴威明頓信託公司編號6:14-cv-06631的提議和解、分配計劃、費用和費用申請。您的反對必須說明您反對的原因以及您的反對是否僅適用於您、和解集體的一部分或整個和解集體。反對意見還必須說明：(i) 反對者的姓名、地址、電話號碼和電子郵件地址，並且必須由反對者簽名；(ii) 包含一份和解集體成員針對每項反對項目的具體原因的陳述，包括和解集體成員提供任何法律和證據支持(包括證人)希望提請法院注意；且(iii) 包括足以證明反對者在和解集體中的成員資格的資訊，包括BPS基金的投資金額以及每次此類投資和出售的日期。除非法院另有命令，任何未以本通知所述方式提出異議的和解集體成員將被視為已放棄任何異議，並將永遠無法對提議的和解、分配計劃和/或集體律師的費用和開支申請，以及服務費用申請。您的異議必須在**2022年12月21日之前**向法院提交，並郵寄或交付給以下律師，以便在**2022年12月21日之前**收到：

法庭	集體法律顧問	被告律師代表
法院書記員 美國地方法院美國法院 100 State Street Rochester, NY 14614	Rosca Scarlato, LLC Alan L. Rosca, Esq. Paul J. Scarlato, Esq. 161 Washington Street, Suite 1025 Conshohocken, PA 19428	Hodgson Russ LLP Melissa N. Subjeck, Esq. 140 Pearl Street, Suite 100 Buffalo, NY 14202

44. 您無需出席和解聽證會即可讓法院考慮您的書面反對意見。但是，任何已遵守本問題16及以下問題20中所述的和解集體成員都可以在法院允許的範圍內出席和解聽證會並接受聽證。反對者可親自出庭或自費安排律師在和解聽證會上代表他、她或它。

17反對和尋求排外有什麼區別？

45. 反對是告訴法庭您不喜歡擬議的和解、分配計劃或集體律師的費用和開支申請或服務費用申請。您仍然可以從和解中收回款項。只有留在和解集體中，您才能提出反對。將自己排除在外就是告訴法院您不想成為和解集體的一部分。如果您將自己排除在和解集體之外，您沒有理由反對，因為和解和訴訟不再影響您。

和解聽證會

18法院將在何時何地決定是否批准擬議的和解？

46. 法院將於2023年1月11日下午 2:00 在紐約州Kenneth B. Keating Federal Building 3 號法庭舉行和解聽證會。

47. 在本次聽證會上，法院將考慮：(i) 和解是公平、合理、充分的，應獲得批准；(ii) 分配方案公平合理，應當獲得批准；(iii) 集體律師申請律師費、訴訟費用支付和服務裁決的申請是合理的，應獲得批准。法院將考慮根據上述問題 16 中的說明提交的任何書面異議。我們不知道法院需要多長時間才能做出這些決定。

48. 您應該知道，法院可能會更改和解聽證會的日期和時間，而無需向和解集體成員發送其他通知。如果您想參加聽證會，您應該事先諮詢集體法律顧問或訪問網站 www.strategicclaims.net/BioProfit/，以確保聽證會日期和/或時間沒有改變。

19我必須參加和解聽證會嗎？

49. 不用。集體律師將回答法院可能提出的任何問題。但是，歡迎您自費參加。如果您提交了有效且及時的反對意見，法院將予以考慮，您無需到法院討論。您可以請自己的律師出席(費用自理)，但這不是必需的。如果您確實聘請了自己的律師，他或她必須在**2022年12月21日之前**按照以下問題20的答案中描述的方式提交並送達出庭通知。

20我可以在和解聽證會上發言嗎？

50. 您可以請求法院允許在和解聽證會上發言。為此，您必須在2022年12月 21 日之前提交一份聲明，表明您或您的律師打算在 *劉曜毅、謝東宏和蔡秋寶控訴威明頓信託公司* 編號6:14-cv-06631 中出庭 打算在和解聽證會上出示證據的人還必須在他們的反對意見中(根據上述問題16的答案準備和提交)他們可能希望傳喚作證的任何證人的身份以及他們打算向其介紹的任何證物 和解聽證會上的證據。如果您將我們排除在和解集體之外，或者如果您沒有按照本問題和上述問題 16中所述的程序在和解聽證會上發言的意圖提供書面通知，則您不得在和解聽證會上發言。

如果你什麼都不做

21如果我什麼都不做會發生什麼？

51. 如果您什麼都不做並且您是和解集體的成員，您將不會從本和解中獲得任何款項，並且您將被禁止提起訴訟、繼續訴訟或參與針對被告和其他被釋放人的任何其他訴訟 被告方關於已獲豁免的索賠。要分享淨和解金，您必須提交一份理賠表(請參閱上面的問題8)。要開始、繼續或參與針對被告和其他免責理賠方的任何其他訴訟，您必須將自己排除在和解集體之外 (請參閱上面的問題 11)

獲取更多信息

22是否有更多關於和解的細節？

52. 本通知總結了擬議的和解。更多細節包含在規定中。您可以在辦公時間內到紐約西區 Kenneth B. Keating Federal Building的美國地方法院書記員辦公室

查看向法院提交的規定或案件中的其他文件。訂閱PACER者(收費服務)還可以通過法院的在線案件管理/電子案件檔案系統(網址為 <https://www.pacer.gov>) 查看在訴訟中公開提交的文件。

53. 您還可以通過訪問理賠管理人的網站 www.strategicclaims.net/BioProfit/ 獲取該規定的副本以及與和解相關的其他文件，以及有關和解的其他資訊。您也可以撥打免費電話 (866) 274-4004 致電理賠管理員，或寫信給 Bio Profit 訴訟案的理賠管理員，地址是：Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063。請不要致電法院詢問和解問題。

淨結算基金分配方案

23我的索賠將如何計算？

54. 下文所述的分配計劃(“分配計劃”或“計劃”)是由原告和集體法律顧問向法院提出以供批准的計劃。法院可以批准本分配計劃或對其進行修改，而無需另行通知和解集體。任何修改計劃的訂單都將發佈在理賠管理員網站上：www.strategicclaims.net/BioProfit/

55. 結算金額及其賺取的利息是“結算資金”和解基金在扣除法院批准的律師費和開支、服務裁決、通知和管理費用、稅款以及法院批准的任何其他費用或開支後，稱為“淨和解基金”。淨和解基金將分配給根據法院批准的分配計劃及時提交有效理賠表的和解集體成員，該表格顯示已確認理賠。

56. 本分配計劃的目的是在授權理賠人之間公平分配淨和解金，這些授權理賠人據稱因原告經修訂的訴狀中所聲稱的違法行為而遭受經濟損失，該訴狀在被告駁回的動議中倖存下來。

57. 根據擬議的分配計劃，理賠管理人將先計算每個授權理賠人的損失。

58. 所謂的損失是指每個授權理賠人為其BPS基金投資支付的本金，減去已領利息支付或本金返還而收到的任何金額。

59. 然後，理賠管理人將通過將淨和解基金乘以持有比例來計算每個授權理賠人的賠償，(a) 分子是集體成員的損失，(b) 分母是理賠集體成員的總損失。

60. 該計劃不是和解批准的一部分或條件。根據該協議，淨和解金可根據提議的計劃或法院可能批准的其他計劃分配。

61. 根據該計劃的計算方式並非旨在估計或指示和解集體成員在審判後可能能夠收回的金額。分配計劃的計算只是為了按比例分配淨和解金給授權理賠人所進行權衡的一種方法。個人和解集體成員的重獲金額將取決於，例如 (a) 提交的理賠的總數和價值；(b) 和解集體成員收到多少利息作為回報，如果有的話；(c) 理賠人何時出售其在 BPS 基金中的投資。

62. 由於淨和解金小於和解集體成員聲稱遭受的總損失，因此下文所述的計算確認損失的公式並非旨在估計實際支付給授權理賠人的金額。相反地，這些公式提供了在授權理賠人之間按比例分配淨和解金的基礎。授權理賠人的“認可理賠”應為用於計算授權理賠人在淨和解金中的比例份額的金額。按比例分配的份額應為授權理賠人的已確認理賠除以所有授權理賠人的已確認理賠總額，再乘以淨和解金總額。

63. 被告、他們各自的律師和所有其他被免責的被告方對和解基金的投資、淨和解基金的分配、分配計劃或任何理賠的支付不承擔任何責任或義務。原告、集體法律顧問和代表他們行事的任何人同樣對他們為執行、管理和分發和解所做的合理努力不承擔任何責任。

已確認損失金額的計算

64. 理賠管理人將為理賠表中列出的BPS基金中的每項投資計算其“確認損失金額”，如下文所述，並為此提供了充分的文件。如果理賠人確認損失金額的計算結果為負數，則該數字應設置為零。

65. 對於 BPS 基金的每項投資，都會計算出“現金損失” 現金損失定義為購買價格(不包括所有費用、稅金和佣金)減去銷售價格(不包括所有費用、稅金和佣金) 如果計算損失結果為負數，則該數字應設置為零。

66. 理賠人已確認損失金額的總和將成為理賠人“已確認理賠”

附加規定

67. 淨和解金將分配給所有授權理賠人 按比例付款為 10美元或更多 如果按比例支付給任何授權理賠人的款項少於 10美元，則不會將其包括在計算中，並且不會向該授權理賠人進行分配。

68. 根據本分配計劃的付款將被視為對所有授權理賠人的最終決定。已確認的理賠將由理賠管理人按照此處定義的方式計算，並且不能小於零。

69. 在處理完所有理賠並在法院最終批准和解之後，將向合格的授權理賠人進行分配。如果在淨和解金初始分配之日起至少六(6)個月後，淨和解金中有任何餘額(無論是由於退稅、未兌現支票或其他原因)，則理賠管理人應在支付管理費用、稅款以及律師費和開支(如果有)後，再以公平和經濟的方式兌現其初始支票給授權理賠人 重新分配此餘額，且是可行 合算的。一旦進行進一步分配不再可行或不合算時 則重新分配支付未清的通知和管理費用、稅款以及律師費和開支後仍留在淨結算基金中的任何餘額，以及服務費(如有)應捐贈給機構投資者理事會或法院批准的其他此類非營利和非宗派組織。

70. 根據分配計劃或法院可能批准其他計劃的付款將對所有授權理賠人具有決定性。任何人不得因實質上按照規定、計劃經法院批准的分配，或法院的進一步命令。原告、被告、他們各自的律師和所有其他被免責方對和解基金、淨和解基金、分配計劃或確定、管理、計算或支付的投資或分配不承擔任何責任或義

務 任何理賠表或理賠管理人的不履行、和解基金所欠稅款的支付或預扣或與此有關的任何損失。

71. 每個理賠人都被視為已將理賠提交給紐約西區美國地方法院管轄。

給證券經紀人和代理人的特別通知

72. 如果您知道投資BPS基金的人員的姓名和聯繫資訊，請您在**收到通知後十(10)個工作日內**：(a) 向理賠管理人提供投資BPS基金的每個人或實體的姓名、最後確認的地址和/或電子郵件地址；(b) 向理賠管理員索取本通知和理賠表的副本，這些副本將免費提供給您，並在收到後**十(10)個工作日內**，將此通及理賠表直接郵寄給所有這些證券的受益人。您有權從和解基金中報銷您向受益所有人發出通知所產生的合理自付費用，金額不超過 0.05 美元外加郵資，按照理賠管理人每份通知書使用的當前費率郵寄您的理賠表；或向理賠管理員提供的每個姓名、郵寄地址和電子郵件地址(在可用的範圍內)，每一個姓名0.05 美元將根據要求和提交適當的證明文件並及時遵守上述指令支付費用。任何有關費用的合理性或記錄的爭議將由法院審查。與上述有關的所有通信都應發送給理賠管理人：

Bio Profit Litigation
c/o Strategic Claims Services
P.O. Box 230
600 N. Jackson Street, Suite 205
Media, PA 19063

日期：2022/10/11

理賠表和免責聲明

提交理賠表的截止日期：此理賠表必須在 2023 年 1 月 4 日之前寄出，以郵戳為依據。理賠表可以郵寄至 Bio Profit 訴訟 轉交 Strategic Claims Services，地址為 **600 North Jackson Street, Suite 205, Media, Pennsylvania 19063**，或掃描並通過電子郵件發送至 info@strategicclaims.net

如未能及時提出理賠申請，將視同放棄參與 劉曜毅、謝東宏和蔡秋寶 訴訟威明頓信託公司的任何和解所得款項分配權利，第14 CV 6631 號民事訴訟(“集體訴訟”)，目前正在紐約西區美國地方法院審理(“和解”)

在填寫本理賠表之前，請閱讀待決集體訴訟通知、和解方案、律師費及支出費異動以及服務判決(“通知”)

如提供虛假、誤導性或不完整的資訊/文件可能會延遲支付任何和解金額，並可能危及您的分配權。

定義

1. “集體和解”或“集體和解成員”意指所有購買或獲得Bio Profit基金而受到損害的個人或實體。集體和解中排除了 (i) 被告；(ii) 任何曾擔任被告的高級職員或董事的人 (iii) 任何被告擁有或曾經擁有控股權益的任何公司或實體 (iv) 被告的母公司或子公司 (v) 任何被排除在外的個人或實體的法定代理人、代表人、繼承人、受益人、利益繼承人或受讓人，以其各自的身份；以及 (vi) 通過提交法院接受有效排除請求來排除自己的任何個人或實體。

2. “被告”是指威明頓信託公司或威明頓信託，全國協會。

美國地方法院
紐約西區
劉曜毅、謝東宏和蔡秋寶 訴訟威明頓信託公司
案件號碼 6:14-cv-06631
郵戳必須不遲於：2023 年 1 月 4 日
請輸入或打印

第一部分：理賠人身份資訊

如果在本表格背面的姓名和地址資訊正確，您無需在此部分提供您的聯繫資訊
如果背面的姓名和地址資訊不正確，您必須在下面長框中填入正確的聯繫資訊

我的姓名和地址資訊不正確 請注意，如果您需要更改此理賠的名稱，您必須提供文件證明新的理賠人姓名，為有資格代表受益所有人

受益所有人姓名 (名、中間名、姓氏)

記錄所有人的姓名 (名字、中間名、姓氏) (如果與上面列出的受益人不同)

地址-街道

城市 州 郵遞區號

--	--	--

省份 國家

--	--

社會安全號碼 稅號

--	--

電話(工作) 電話(住家)

--	--

電子信箱

第二部分：Bio Profit基金投資時間表

以下資訊，如有填寫 來自您在 美國證管會SEC 訴訟中提交給接管人的理賠表，並構成此理賠的基礎

受益所有人姓名：

請勾選其一確認：

- 本表格上面列出有關Bio Profit基金的投資資訊是正確的
如果您勾選此框，則無需提供任何額外的支持。
- 本表格上面列出的有關 Bio Profit基金的投資資訊不正確，或者上面沒有列出任何資訊 請注意，如果您選擇此框，您必須提供文件以證明所提供的資訊不正確，例如您的經紀或銀行對帳單顯示您對Bio Profit基金的投資。未能提供此資訊可能會導致您的理賠被拒絕。

您必須閱讀並在第 5 頁上簽字

第三部分：提交法院管轄權和確認書

我(我們)根據通知中所述日期為 2022 年 8 月 12 日的和解規定和協議條款而提交本理賠表和免責聲明。我(我們)就我(我們)作為和解集體成員(定義見上文)的理賠以及為了執行所載的免責而服從紐約西區美國地方法院的管轄權 我(我們)進一步確認，在訴訟中作出的任何判決我(我們)可能受其約束。我(我們)同意在需要時向理賠管理人或原告的集體律師提供額外資訊以支持該理賠。我(我們)沒有對於Bio Profit基金的投資或捐款提交任何其他理賠，並且知道沒有其他人代表我(我們)這樣做。

第四部分：豁免及證明

1. 集體代表和和解集體特此永遠免除被告的任何和所有索賠和訴訟因由的各種性質和描述，無論已知或未知（如通知中所定義）、或有或絕對、成熟或不成熟，可發現的或不可發現的、已清算的或未清算的、應計的或未應計的，包括那些被隱瞞或隱藏的，無論法律或衡平法理論如何，以及是否根據聯邦、州、普通法或外國法律，原告或和解的任何其他成員 (a) 於訴訟中主張；或(b) 可以在任何法庭上聲稱直接或間接全部或部分產生於、基於或涉及 (1) 訴訟中涉及、闡述或提及與投資Bio Profit基金有關的指控、交易、事實、事項或事件、陳述或遺漏；或 (2) 被告和/或其律師對訴訟和/或其中指控的理賠的辯護或和解。
2. 我(我們)特此確認完全滿意，並在此完全、最終和永遠解決、釋放、放棄及解除對被告和威明頓信託公司過去、現在或未來母公司、控股公司 子公司、關聯公司、供應商、代理人、繼承人、轉讓人、受讓人和/或受讓人及其各自的子公司、關聯公司、供應商、代理人、繼承人、轉讓人、受讓人和/或受讓人，以及他們各自的現任、前任，或未來的高級職員、董事、股東、僱員、代表、顧問、會計師和律師的所有已釋放的理賠
3. 除法院發布最終判決批准和解協議並在生效日期生效，否則本免責聲明無效。
4. 我(我們)在此保證並聲明我(我們)沒有自願或非自願地轉讓或聲稱轉讓或轉讓根據本新聞稿或其任何其他部分或部分發布的任何事項。
5. 我(我們)在此保證並聲明，我(我們)已經審查了上述投資資訊及/或包含了關於我(我們)對理賠表和免責聲明 涵蓋了Bio Profit基金所有投資的交易資訊，以及我(我們)的Bio Profit基金投資的任何銷售。
6. 根據偽證罪的處罰，我(我們)證明：
 - (a) 此表上顯示的社會保障/稅務識別號碼是正確的；且
 - (b) 我(我們)證明我(我們)並不受《國內稅收法》第 3406(a)(1)(C)條規定的備用預扣稅的約束，因為：
 - (i) 我(我們)免於備用預扣稅；
 - (ii) 我(我們)沒有收到美國國稅局通知我(我們)因未能報告所有利息或股息而被扣繳預扣稅款；
 - 或 (iii) 國稅局已通知我(我們)不再需要繳納備用預扣稅。

注意：如果您已收到美國國稅局通知您需要預扣稅款，您必須劃掉上述的b

除了避免備用預扣稅所需的證明外，美國國稅局不需要您同意本文件的任何規定。

我(我們)聲明並證明我(我們)理解，通過執行本免責聲明和證明，我(我們)明確免責並永久放棄針對免責方的所有免責聲明。

我(我們)聲明，根據美國法律，偽證罪將受到處罰，以下簽名人提供的上述資訊是真實和正確的。

執行日期 __ (日) ____ (月/年)，於 __ (城市) __ (國家)

所有人簽名

聯名所有人簽名

所有人姓名

聯名所有人姓名

簽署人其他身份，例如受益購買人、執行人、管理人、受託人等

**準確的理賠處理需要大量時間
感謝您的耐心等待**

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2. 如果需要，記得附上支持文件。
3. 請勿發送任何形式的原始文件。
4. 保留一份您的理賠表和免責表以及支持文件（如果需要）以供記錄。
5. 如果您希望確認收到您的理賠表和免責聲明表，請發送認證郵件，要求回執。
6. 如果您搬家，請將您的新地址發給我們。

jbravata@strategicclaims.net

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Release Distribution Confirmation

Rosca Scarlato, LLC 代表 Bio Profit Funds 的投資者宣布擬議的集體訴訟和解方案

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Rosca Scarlato, LLC 代表 Bio Profit Funds 的投資者宣布擬議的集體訴訟和解決方案

November 10, 2022 11:00 ET | Source: [Rosca Scarlato LLC](#)



紐約州羅切斯特市, Nov. 11, 2022 (GLOBE NEWSWIRE) -- Rosca Scarlato, LLC 宣布, 美國紐約西區地方法院已批准以下擬議集體訴訟和解決方案公告, 該公告將使 Bio Profit Funds 的投資者受益:

美國地區法院
紐約西區

劉曜毅、謝東宏和蔡秋實個人及所有其他人代表
原告
民事編號6:14-cv-06631-EAW-MJP
威明頓信託公司及威明頓信託全國協會
被告

關於未決集體訴訟和擬議和解、律師費和開支動議以及服務費的摘要通知

致: 投資於 Velocity Investment Group, Inc. 提供的 Bio Profit Funds (BPS I、BPS II、BPS III、BPS V 或 Velocity Valley & Grand) 而遭受損失的所有投資人及公司("集體")。

請仔細閱讀本通知。您的權利將受到本法院未決的集體訴訟的影響。

特此通知您, 根據聯邦民事訴訟規則第 23 條和美國紐約西區地方法院("法院")的命令, 上述集體訴訟("訴訟")正在法院審理中。

您還將獲悉, 原告以 4,350,000 美元現金與訴訟達成和解("和解"), 如果獲得批准, 將解決訴訟中的所有理賠。

聽證會將於 2023 年 1 月 11 日下午 2:00 (美國東部時間) 舉行, 在美國首席地方法院法官 Elizabeth A. Wolford 面前, 親自在美國紐約西區地方法院 100 State Street, Rochester 3 號法庭或通過電話或視頻會議審理, 將決定 (i) 擬議的和解是否應被批准為公平、合理和充分的; (ii) 僅出於和解的目的, 該訴訟是否應被證明為代表集體的集體訴訟, 原告是否應被證明為集體的成員, 以及原告是否應被任命為集體律師; (iii) 是否應在不利於被告的情況下駁回訴訟, 以及是否應授予 2022 年 8 月 12 日的和解協議 (和通知) 中規定的免責條款; (iv) 擬議的分配計劃是否應被批准為公平合理; (v) 集體律師關於判斷律師費和開支的動議以及原告的服務費申請是否應獲批准。如果聽證會通過電話或視頻會議舉行, 有關如何參與的資訊將發佈在 www.strategicclaims.net/BioProfit/。

如果您是集體成員, 您的權利將受到未決訴訟和和解的影響, 並且您可能從和解中獲得付款。 如果您尚未收到通知和理賠表, 您可以聯繫理賠管理員 Bio Profit 訴訟案轉 Strategic Claims Services (理賠服務機構) 地址 P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063; 電話 1 866-274-4004; 或 info@strategicclaims.net。您也可以在线提出理賠或從和解網站 www.strategicclaims.net/BioProfit/ 下載通知和理賠表的副本。

如果您是集體成員, 您必須在 **2023 年 1 月 4 日之前** 在线提交理賠或向理賠管理員提交理賠表, 才有資格從和解中獲得付款。如果您是集體成員且未提交適當的理賠表, 您將沒有資格獲得付款, 但您仍將受到法院在訴訟中作出的任何判決或命令的約束。

如果您是集體成員並希望將自己從集體中排除, 您必須根據通知中所提的提交說明並不遲於 **2022 年 12 月 21 日前** 收到的排除請求。如果您正確地將自己排除在集體之外, 您將不受法院在訴訟中作出的任何判決或命令的約束, 並且您將沒有資格從和解中獲得付款。排除您自己是唯一可能讓您參與針對被告或任何其他被解除方的任何其他當前或未來訴訟的一部分, 這些訴訟涉及和解正在解決的理賠, 即使您有未決或稍後提起另一訴訟或其他訴訟對於和解所涵蓋的理賠相關的免責人提起訴訟。

對擬議的和解、擬議的分配計劃、原告律師關於律師費和訴訟費用的動議以及原告的服務費申請的任何異議必須向法院提交並提交給原告律師和被告律師, 以便根據通知中的說明, 他們需在 **2022 年 12 月 21 日之前** 收到。

有關本通知、和解或您參與其中的資格的所有問題都應直接提交給理賠管理員或原告的律師。請不要就本通知聯繫法院、書記員辦公室、被告或其律師。

應向以下人員索取通知和理賠表:



600 N. Jackson Street, Suite 205
Media, PA 19063
電話: 866-274-4004
傳真: 610-565-7985
Email: info@strategicclaims.net
www.strategicclaims.net/BioProfit/

除索取通知和理賠表外, 其他查詢應向集體律師提出:

ROSCA SCARLATO, LLC
Alan L. Rosca, Esq.
地址: 23250 Chagrin Blvd., Suite 100
Beachwood, OH 44122
電話: (216) 946-7070
arosca@rscounsel.law
Paul J. Scarlato, Esq.
地址: 161 Washington Street, Suite 1025
Conshohocken, PA 19428
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根據法院命令

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EXHIBIT 5

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI, Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

Civil No. 6:14-cv-06631-
EAW-MJP

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

**DECLARATION OF PAUL J. SCARLATO FILED ON BEHALF OF ROSCA
SCARLATO, LLC AND GOLDMAN SCARLATO & PENNY, P.C. IN SUPPORT OF
PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES,
PAYMENT OF EXPENSES, AND FOR SERVICE AWARD**

I, Paul J. Scarlato, declare as follows:

1. I am a partner of Goldman Scarlato & Penny, P.C. ("GSP"). As of January 1, 2022, I am also a member of Rosca Scarlato, LLC ("RS"), Court-appointed Class Counsel the above-captioned class action (the "Action"). (GSP and RS are referred to collectively as the "Firms"). I am submitting this Declaration in support of the Firms' application for an award of attorneys' fee and expenses in connection with services rendered in the Action from inception through January 9, 2023, in connection with the Settlement.¹ I have knowledge of the matters set forth herein based on personal knowledge, my review of the Firms' records, and consultation with other personnel of the Firms.

¹ As defined in the Stipulation and Agreement of Settlement dated August 12, 2022. (ECF 239-1).

2. The Firms are counsel of record for Plaintiffs Yao-Yi Liu, Tung-Hung Hsieh and Chiu-Pao Tsai, the Court appointed Class Representatives in the Action.

3. The information in this Declaration regarding the Firms' time, including in the schedule attached hereto as Exhibit 1, was prepared from daily time records regularly prepared and maintained by the Firms in the ordinary course of business. I, along with my partner Alan Rosca, are the partners/members who oversaw the Firms' activities in the litigation. Mr. Rosca and I reviewed the Firms' daily time records to confirm their accuracy. The purpose of this review was to confirm both the accuracy of the entries in the time records as well as the necessity for, and reasonableness of, the time and expenses committed to the Action. Based on this review, I believe that the time reflected in the Firms' lodestar calculations and the litigation expenses for which payment is sought are reasonable and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the expenses are all of the type that would normally be charged to a fee-paying client in the non-contingent marketplace.

4. The schedule attached hereto as Exhibit 1 is a summary reflecting the amount of time spent by each attorney and professional support staff employee of the Firms who were involved in the Action, and the lodestar calculation based on the Firms' current hourly rates. For personnel who are no longer employed by the Firms, the lodestar calculation is based upon the rates for such personnel in his or her final year of employment by the Firms. The schedule was prepared from daily time records regularly prepared and maintained by the Firms. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

5. The total number of hours expended on the Action by the Firms' attorneys and professional support staff employees from their inception through January 9, 2023 was 3,383.70. The total resulting lodestar for the Firms is \$2,396,356.00.

6. The hourly rates for the attorneys and professional support staff of the Firms included in Exhibit 1 are the Firms' usual and customary hourly rate. The Firms' lodestar figures are based upon the Firms' hourly rates, which do not include charges for expense items. Expense items are recorded separately and are not duplicated in the Firms' hourly rates.

7. Set forth below is a description of the services rendered by each attorney for whom fees are requested and who committed at least ten hours of work to the prosecution of the Action:

- Alan L. Rosca (partner): Participated in all aspects of the Action including traveling to Taiwan to meet with and debriefing the Plaintiffs and other essential witnesses prior to case filing. Drafted the initial complaint and First Amended Complaint. Performed extensive factual and legal research. Drafted and edited the numerous submissions in opposition to defendants' motions to dismiss. Prepared for and attended Court hearings, presented argument on behalf of Plaintiffs in opposition to Defendants' motion to dismiss, and argued and/or attended other Court hearings. Participated in case strategy. Drafted and edited responses and objections to defendants' discovery requests. Prepared for and took depositions of Defendants' witnesses in Wilmington, DE and Buffalo, NY. Prepared for and defended the depositions of the Class Representatives. Vetted and selected experts. Worked with liability and damages experts on case analysis and strategy. Traveled to San Diego, California to reviewed documents maintained by the Bio Profit Receiver. Traveled to San Diego to conduct the deposition of the Receiver. Participated in three mediation sessions before Mr. Buzard, Mr. Young and Judge Pederson. Drafted detailed mediations statements analyzing the strengths and weaknesses of the case in advance of each mediation. Traveled to Taiwan to meet with potential witness and conduct meetings with several hundred Bio Profit investors in preparation for filing a group action. Negotiated the final Settlement terms. Participated in drafting the motions for preliminary approval and final approval of the Settlement.
- Paul J. Scarlato (partner): Participated in all aspects of the Action including drafting the First Amended Complaint. Performed extensive factual and legal research. Drafted and edited the numerous submissions in opposition to defendants' motions to dismiss. Prepared for and attended Court hearings, including the hearing on Defendants' motion to dismiss and other discovery motions. Participated in case strategy sessions. Drafted and edited responses and objections to defendants' discovery requests. Drafted, edited and served discovery on Defendants. Prepared for, attended and took depositions of Defendants' witnesses in Wilmington, DE and Buffalo, NY. Prepared for and defended the depositions of the Class Representatives in Buffalo, NY. Traveled to San Diego, California to review documents maintained by the Bio Profit Receiver. Participated in the mediation sessions before Mr. Buzard, Mr. Young and Judge Pederson. Drafted detailed mediations statements analyzing the strengths and weaknesses of the case in

advance of each mediation. Vetted and selected experts. Worked with liability and damages experts on case strategy and expert reports. Drafted the Stipulation and Agreement of Settlement and supporting Exhibits. Drafted and edited motions for preliminary approval and final approval of the Settlement. Worked with the Claims Administrator on the notice program and administration of the Settlement.

- Mark S. Goldman (GSP partner): Participated in various aspects of discovery overseeing associate attorneys regarding discovery, and motions to compel. Participated in case strategy sessions regarding deposition and settlement strategy. Vetted and selected experts and worked with damages expert on damages analysis.
- Douglas Bench (GSP associate): Primary associate for GSP assigned to case. Participated in all aspects of written discovery, drafted multiple sets of discovery requests directed to Defendants and subpoenas to third parties. Responded to discovery directed to Plaintiffs. Primary lawyer responsible for assisting clients in gathering documents in response to Defendants' discovery requests, and organizing and producing same. Drafted deficiency letters and motions to compel. Conducted legal research on various issues. Participated in the review of documents produced by Defendants. Assisted in deposition preparation. Prepared for and attended hearing on discovery motion in Rochester, NY. Participated in case management and strategy meetings.
- Laura Mummert (GSP associate): Participated in briefing the opposition of Defendants' motion to dismiss.
- Christopher Mooney (Of Counsel to GSP): Participated in various aspects of discovery including drafting requests for admissions propounded on Defendants and responding to requests for admission propounded on Plaintiffs.
- Edward Pekarek (Of Counsel to RS): Drafted preliminary and final approval motions.

8. As detailed in Exhibit 2, the Firms have incurred a total of \$104,011.95 in unreimbursed litigation expenses in connection with the prosecution of the Action. The expenses are reflected on the books and records of the Firms. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 9th day of January 2023, at Conshohocken, Pennsylvania.



Paul J. Scarlato
Attorney for Plaintiffs and the Settlement Class

EXHIBIT 1

ROSCA SCARLATO LLC/GOLDMAN SCARLATO & PENNY, P.C. TIME REPORT
Inception through March 11, 2022

NAME	HOURS	HOURLY RATE	LODESTAR
Members/Partners			
Paul J. Scarlato	1,379.90	\$825	\$1,138,417.50
Alan L. Rosca	863.5	\$800	\$690,800.00
Mark S. Goldman	93.1	\$725	\$67,497.50
Associates/Of Counsel			
Douglas Bench	908.7	\$475	\$431,632.50
Laura Mummert	12.5	\$575	\$7,187.50
Christopher Mooney	36.6	\$425	\$15,555.00
Edward Pekarek	65.5	\$695	\$45,522.50
Contract Attorney			
Joseph Orlando	3.6	\$300.00	\$1,080.00
Paralegals/Analyst			
Violet Bunici	15.3	\$275	\$4,207.50
Alexander Leon	5	\$185	\$925.00
TOTAL LODESTAR	3,383.70		\$2,396,356.00

EXHIBIT 2

**ROSCA SCARLATO LLC/GOLDMAN SCARLATO & PENNY, P.C.
EXPENSE REPORT**

CATEGORY	AMOUNT(\$)
Contributions to the Litigation Expense Fund	\$72,500.00
Transportation, Hotels and Meals	\$20,178.79
Online Legal Research	\$2,334.00
Courier/Delivery Costs	\$78.82
Court Filing Fees	\$343.00
External Copy Costs	\$3,810.18
Internal Photocopy Costs	\$595.00
Postage	\$27.40
Interpreter/Translation Charges	\$3,579.76
Document Retrieval/Pacer	\$339.00
Transcripts	\$78.00
Subpoena Service	\$85.00
Miscellaneous	\$63.33
TOTAL EXPENSES:	\$104,011.95

EXHIBIT 3

FIRM RESUME

ROSCA SCARLATO LLC CLEVELAND, OH/CONSHOHOCKEN, PA

ROSCA SCARLATO LLC prosecutes securities fraud, ERISA, and consumer fraud class actions, as well as corporate governance derivative cases and investor arbitration claims nationwide. Through their prior firms, including most recently Goldman Scarlato & Penny, P.C., Alan Rosca and Paul Scarlato have represented the interests of ordinary people victimized by securities fraud, violations of ERISA, corporate misconduct, anticompetitive conduct, deceptive consumer practices, and unscrupulous financial advisors. Messrs. Rosca and Scarlato formed Rosca Scarlato, LLC on January 1, 2022, to continue the representation of their new and existing clients in those practice areas. The Firm's lawyers have helped recover hundreds of millions of dollars on behalf of their clients and helped to institute meaningful changes in business practices that seek to ensure robust competition in commercial markets, honest and fair disclosures in financial markets, and truthful advertising in retail markets.

ALAN L. ROSCA. Mr. Rosca focuses his legal practice on complex financial and commercial matters, particularly in the areas of securities litigation, investment fraud, and international investment disputes. He often represents institutional and individual investors in disputes with financial industry members arising out of investment fraud or misconduct. He prosecutes claims on behalf of investors through class actions in state or federal courts, and FINRA arbitrations. He also practices in the areas of wage-and-hour and other labor-related disputes, whistleblower matters, and antitrust cases, with a focus on market manipulation.

Alan was a lecturer and adjunct professor of Securities Regulation at Cleveland-Marshall

College of Law, Cleveland State University, starting in 2012.

Alan has served as co-lead counsel, or is currently involved in a leading role, in class actions on behalf of investors who lost money as a result of alleged investment fraud or Ponzi schemes, as well as in other class action matters arising out of wage-and-hour or business disputes, including *Hanson v. Berthel Fisher & Company Financial Services, Inc., et al.* (N.D. Iowa 2013) (a securities class action on behalf of investors in an allegedly fraudulent real estate investment program); *Carol Prock v. Thompson National Properties, LLC, et al.* (C.D. Cal. 2013) (a securities class action on behalf of investors in an allegedly fraudulent real estate investment program); *Yao Yi Liu et al. v. Wilmington Trust Company* (W.D.N.Y. 2014) (a class action lawsuit on behalf of investors of a \$145 million fraudulent scheme, alleging that the defendant trustee and custodian bank breached its duties as an escrow agent and aided the perpetrators of the scheme); *Spaude v. Mysyk* (N.D. Ohio 2015) (a securities class action on behalf of investors in a \$55 million allegedly fraudulent oil-and-gas investment scheme, against the alleged perpetrators of the scheme and the law firm that assisted the scheme); *Jennifer Roth v. Life Time Fitness, Inc.* (D. Minn. 2015) (a wage-and-hour class action on behalf of fitness instructors seeking unpaid wages for work that was required by defendants); *Aleem v. Pearce & Durick* (D. North Dakota 2015) (a securities class action on behalf of investors in a \$65 million fraudulent investment scheme, alleging that the defendants violated their fiduciary duties to the investors and assisted in the scheme's securities violations by serving as escrow agents for the investors' investments and offering materially false opinions to the investors regarding their investments in the scheme); *Strong v. Safe Auto Insurance Group, Inc. et al.* (S.D. Ohio 2016) (a wage-and-hour class action on behalf of employees of defendants seeking unpaid wages for work that was required by defendants); *Hay v. United Development Funding IV et al.* (N.D. Texas 2016) (a securities class action on behalf of investors in a \$625 million allegedly Ponzi-like real estate investment scheme, against entities including the

scheme, its principals and affiliated entities, as well as the alleged scheme's underwriter and auditor); *Fastrich v. Continental General Insurance Company* (D. Neb. 2016) (a class action on behalf of insurance agents affiliated with defendants, arising out of the alleged non-payment of certain fees and commissions owed to such agents); *Elliott v. Bank of Oklahoma* (D.N.J. 2016) (a class action on behalf of investors in a \$198 million allegedly fraudulent investment scheme perpetrated through a series of municipal bond offerings, against the trustee bank for the bond offerings and the underwriters of some of the offerings).

Alan received his Juris Doctor degree *summa cum laude* from Cleveland-Marshall College of Law in May 2008. While in law school he served as a Managing Editor of the Cleveland State Law Review, received the Dean's (full) scholarship for the entire Juris Doctor program, was on the Dean's List, and won the "Best Oralist" award in the Jessup Moot Court competition, Pacific Region. He passed the Ohio Bar exam in top 1%, with the highest grade in the state to the multistate (federal law) section.

He is licensed to practice law in the Ohio state and federal courts, and in other federal courts nationwide. He is a member of the Public Investors Arbitration Bar Association, the Cleveland Metropolitan Bar Association, where he served as the Chair of the Unlicensed Practice of Law Committee, and the Cleveland Diplomatic Corps. He also holds a Master of Business Administration degree from Baldwin-Wallace College, Ohio. He is a speaker on Ponzi schemes, investment fraud, cryptocurrencies, and attorney professionalism.

PAUL J. SCARLATO. Paul Scarlato has concentrated his practice on the litigation of complex class actions since 1989. He has litigated numerous cases under the federal and state securities laws, ERISA, consumer, antitrust and common law involving companies in a broad range of industries, and has litigated many cases involving financial and accounting fraud.

In securities fraud cases, Mr. Scarlato was one of three lead attorneys for the class in *Kaufman v. Motorola, Inc.*, (N.D.IL), a securities fraud class action that settled weeks before trial. Mr. Scarlato served as lead counsel in *Seidman v. American Mobile Systems, Inc.*, (E.D. PA), a securities class action that resulted in a settlement for the plaintiff class, again on the eve of trial, and served as colead counsel in *In re: Corel Corporation Securities Litigation* (E.D. PA) (securities fraud class action).

Mr. Scarlato has played a key role in numerous other securities fraud class actions over the course of his career, including as a member of the plaintiffs' teams that prosecuted *In re Broadcom Securities Litigation*, which resulted in a settlement of \$150 million for the class, and *AOL Time Warner Securities Litigation*, which resulted in a settlement of over \$2.5 billion for investors, *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement in case arising out of options backdating), *In re Mercury Interactive Securities Litigation* (\$117.5 million settlement, options backdating), *In re SafeNet, Inc. Securities Litigation* (\$25 million settlement, options backdating), and *In re Semtech Securities Litigation* (\$20 million settlement, options backdating). Mr. Scarlato was one of the lead lawyers in *Leibovic v. United Shore Financial Services* (E.D.MI) (data breach class action), and *Afzal v. BMW of North America, LLC*, (D.NJ) (product defect class action), and served on the plaintiffs' Executive Committee in *Vikram Bhatia, D.D.S. v. 3M Company*, Case No. 16-cv-01304 (D.MN) (product defect class action), and is counsel in *In re Platinum and Palladium Antitrust Litigation*, Case No. 14-cv-09391 (S.D.N.Y), and *In re Treasury Securities Auction Antitrust Litigation*, Case No. 15-md-02673 (S.D.N.Y.).

Mr. Scarlato, along with Mr. Rosca, currently serves as lead counsel in *Paulson v. Two Rivers Water and Farming Co., et. al* (D. Co.) (class action under the Colorado Securities Act); *Yao Yi Liu v. Wilmington Trust Company* (W.D.N.Y.) (representing victims of a Ponzi scheme); *Gregory v. Zions Bancorporation* (D. Utah) (representing victims of a Ponzi scheme); *Chang v.*

Wells Fargo bank, N.A. (N.D. Ca.) (representing victims of a Ponzi scheme); *Elliott v. Bank of Oklahoma* (D.N.J.) (representing victims of a Ponzi scheme); and *O’Hearn v. Vida Longevity Fund, LP, et al.* (D. De) (class action under the Colorado Securities Act).

Mr. Scarlato graduated from Moravian College in 1983 with a degree in accounting, and received his Juris Doctor degree from the Widener University School of Law in 1986. Mr. Scarlato served as law clerk to the Honorable Nelson Diaz, of the Court of Common Pleas of Philadelphia County, and thereafter to the Honorable James T. McDermott of the Pennsylvania Supreme Court. After his clerkships, and prior to becoming a litigator, Mr. Scarlato was a member of the tax department of “big four” accounting firm where he provided a broad range of accounting services to large business clients in a variety of industries.

Mr. Scarlato is a member of the bars of the Commonwealth of Pennsylvania and the State of New Jersey, and those of various federal district and circuit courts.

EXHIBIT 6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI, Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

Civil Action No. 6:14-cv-06631-EAW-MJP

vs.

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

**DECLARATION OF JONATHAN GARDNER ON BEHALF OF
LABATON SUCHAROW LLP IN SUPPORT OF CLASS COUNSEL’S APPLICATION
FOR AN AWARD OF ATTORNEYS’ FEES AND EXPENSES**

I, JONATHAN GARDNER, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner in the law firm of Labaton Sucharow LLP. I am submitting this declaration in support of Class Counsel’s application for an award of attorneys’ fees and expenses in connection with services rendered in the above-entitled class action (the “Action”) from inception through December 31, 2022 (the “Time Period”).

2. My firm, which assisted Class Counsel during the course of the Action, was involved in various aspects of the litigation, particularly fact and expert discovery and settlement negotiations, as detailed in the Declaration of Paul J. Scarlato in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation and Class Counsel’s Motion for an Award of Attorneys’ Fees, Payment of Expenses and for Service Awards, filed herewith. My firm was also responsible for maintaining a joint litigation expense fund on behalf of Plaintiffs’

Counsel (the “Litigation Expense Fund”) in order to monitor the major expenses incurred in the Action and to facilitate their payment. My firm is seeking payment of its expenses in connection with the litigation, including its contributions to the Litigation Expense Fund.

3. The information in this declaration regarding my firm’s expenses and the Litigation Expense Fund is taken from expense records prepared and maintained by the firm in the ordinary course of business. These records (and backup documentation where necessary) were reviewed by me and others at my firm, under my direction, to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the expenses committed to the Action. The review also confirmed that the firm’s guidelines and policies regarding expenses were followed. As a result of this review, certain reductions were made to expenses in the exercise of billing judgment. As a result of this review and the adjustments made, I believe that the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the non-contingent legal marketplace.

4. As detailed in Exhibit A, attached hereto, my firm has incurred a total of \$426,081.67 in expenses in connection with the prosecution of the Action, some of which relate to the Litigation Expense Fund described below.

5. The expenses incurred by the Litigation Expense Fund are reported in Exhibit B, attached hereto. The Litigation Expense Fund received contributions totaling \$225,015.44 from my firm and Plaintiffs’ Counsel Goldman, Scarlato & Penny, P.C. These contributions are reported in each firm’s individual expense table so that they may be reimbursed for the contributions. The Litigation Expense Fund incurred a total of \$416,029.88 in expenses in connection with the prosecution of the Action, which were paid using the firms’ contributions. Accordingly, there is

an unpaid balance of \$191,014.44, which has been added to my firm's expense report (Exhibit A hereto) so that, upon Court approval, the unpaid expenses can be paid.

6. The following is additional information regarding certain of the expenses reported in Exhibit A:

(a) Court, Witness & Service Fees: \$2,676.37. These expenses have been paid to court reporters, courts for admission fees, and an attorney service firm.

(b) Work-Related Transportation, Meals & Lodging: \$21,943.73. In connection with the litigation, the firm has paid for work-related transportation (such as airfare, rail-fare and ground transportation in connection with business purposes, such as court appearances, depositions and working after-hours), meals (while traveling or in connection with business purposes, such as working after-hours and full-day depositions), and lodging related to travel in connection with several depositions and court appearances. All airfare has been reduced to economy rates.

(c) Duplicating: \$37,327.20. In connection with this case, the Firm made in-house black and white copies/print outs, at \$0.20 per page, and in-house color copies/print outs, at \$0.40 per page. Each time an in-house copy machine or printer is used, our system requires that a case or administrative client-matter code be entered and that is how the pages were identified as related to this case.

(d) Online Legal and Factual Research: \$17,761.93. This category includes vendors such as PACER, Thomson West (Westlaw), and LexisNexis Risk Solutions. These resources were used to obtain access to court filings, factual and financial information, and to conduct investigative and legal research. The costs for these vendors vary depending upon the type of services requested and usage is tracked using a case or administrative client-matter code.

7. The following is additional information regarding certain of the expenses reported in Exhibit B:

(a) Mediation Fees: \$23,039.39. These are Plaintiffs' share of the fees of JAMS Mediator Michael D. Young, who oversaw one of the all-day mediation sessions between the Parties and facilitated the discussions thereafter, which ultimately resulted in the proposed Settlement.

(b) Deposition Reporting and Transcripts: \$27,873.78. These are the fees of videographers and court reporters in connection with the depositions taken or defended by Plaintiffs' Counsel.

(c) Experts: \$183,890.41. Plaintiffs' Counsel retained experts to provide advice throughout fact discovery and to provide expert opinions in the following areas:

(i) Corporate Trust Specialist: \$92,078.91. Plaintiffs' expert in the field of corporate trusts and practices provided advice throughout fact discovery and was in the process of completing a comprehensive expert report in anticipation of the exchange of expert submissions when the proposed Settlement was reached.

(ii) BSA/AML and Banking Compliance: \$15,680.00. Plaintiffs' Counsel retained several professionals with expertise in matters related to anti-money laundering procedures/compliance and the Bank Secrecy Act.

(iii) Accounting/Damages: \$76,131.50. Plaintiffs' Counsel retained an expert in the field of forensic accounting who assisted with fact discovery and the analysis and quantification of damages, and who was in the process of completing his expert report regarding damages in anticipation of the exchange of expert submissions when the proposed Settlement was reached.

(d) Litigation Support: \$181,226.30. These are the fees of Plaintiffs' e-discovery vendors, which hosted electronic documents produced by Defendants and processed documents produced by Plaintiffs.

8. The expenses pertaining to the Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

9. Attached hereto as Exhibit C is a brief biography of my firm as well as biographies of the firm's partners and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 9th day of January, 2023.



JONATHAN GARDNER

Exhibit A

Yao-Yi Liu, et al. v. Wilmington Trust Company, et al.
No. 6:14-cv-06631-EAW-MJP (W.D.N.Y.)

EXHIBIT A

EXPENSE REPORT

FIRM: LABATON SUCHAROW LLP

REPORTING PERIOD: INCEPTION THROUGH DECEMBER 31, 2022

CATEGORY		TOTAL AMOUNT
Duplicating		\$37,327.20
Postage / Overnight Delivery Services		\$2,552.26
Long Distance Telephone / Fax/ Conference Calls		\$290.30
Court / Witness / Service Fees		\$2,676.37
Contribution to Litigation Expense Fund		\$152,515.44
Online Legal and Factual Research		\$17,761.93
Work-Related Transportation / Meals / Lodging ¹		\$21,943.73
Litigation Fund Unpaid Balance		\$191,014.44
TOTAL		\$426,081.67

¹ Included in this total is an estimate of \$750 for the costs of attending the final settlement hearing, if required. If more than \$750 is incurred, \$750 will be the cap on the amount to be reimbursed to Labaton Sucharow. If less than \$750 is incurred, then only the amount incurred will be reimbursed.

Exhibit B

Yao-Yi Liu, et al. v. Wilmington Trust Company, et al.
No. 6:14-cv-06631-EAW-MJP (W.D.N.Y.)

EXHIBIT B

LITIGATION EXPENSE FUND

INCEPTION THROUGH DECEMBER 31, 2022

<i>DEPOSITS:</i>		<i>TOTALS</i>
Labaton Sucharow LLP		\$152,515.44
Goldman Scarlato & Penny, PC		\$72,500.00
<i>TOTAL DEPOSITS</i>		<i>\$225,015.44</i>
<i>EXPENSES INCURRED BY THE LITIGATION EXPENSE FUND:</i>		
Experts		\$183,890.41
Corporate Trust Specialist	\$92,078.91	
BSA/AML and Banking Compliance	\$15,680.00	
Accounting/Damages	\$76,131.50	
Mediation		\$23,039.39
Deposition Reporting Services		\$27,873.78
Litigation Support		\$181,226.30
<i>TOTAL EXPENSES OF LITIGATION FUND</i>		<i>\$416,029.88</i>
<i>UNPAID BALANCE IN LITIGATION EXPENSE FUND AS OF DECEMBER 31, 2022</i>		<i>(\$191,014.44)</i>

Exhibit C

**Labaton
Sucharow**

Labaton Sucharow Credentials

2023

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ABOUT THE FIRM

Labaton Sucharow has recovered billions of dollars for investors, businesses, and consumers

Founded in 1963, Labaton Sucharow LLP has earned a reputation as one of the leading plaintiffs' firms in the United States. For more than half a century, Labaton Sucharow has successfully exposed corporate misconduct and recovered billions of dollars in the United States and around the globe on behalf of investors and consumers. Our mission is to continue this legacy and to continue to advance market fairness and transparency in the areas of securities, corporate governance and shareholder rights, and data privacy and cybersecurity litigation, as well as whistleblower representation. Our Firm has recovered significant losses for investors and secured corporate governance reforms on behalf of the nation's largest institutional investors, including public pension, Taft-Hartley, and hedge funds, investment banks, and other financial institutions.

Along with securing newsworthy recoveries, the Firm has a track record for successfully prosecuting complex cases from discovery to trial to verdict. As *Chambers and Partners* has noted, the Firm is "*considered one of the greatest plaintiffs' firms,*" and *The National Law Journal* "Elite Trial Lawyers" recently recognized our attorneys for their "*cutting-edge work on behalf of plaintiffs.*" Our appellate experience includes winning appeals that increased settlement values for clients and securing a landmark U.S. Supreme Court victory in 2013 that benefited all investors by reducing barriers to the certification of securities class action cases.

Our Firm provides global securities portfolio monitoring and advisory services to more than 250 institutional investors, including public pension funds, asset managers, hedge funds, mutual funds, banks, sovereign wealth funds, and multi-employer plans—with collective assets under management (AUM) in excess of \$2.5 trillion. We are equipped to deliver results due to our robust infrastructure of more than 70 full-time attorneys, a dynamic professional staff, and innovative technological resources. Labaton Sucharow attorneys are skilled in every stage of business litigation and have challenged corporations from every sector of the financial market. Our professional staff includes financial analysts, paralegals, e-discovery specialists, certified public accountants, certified fraud examiners, and a forensic accountant. We have one of the largest in-house investigative teams in the securities bar.



SECURITIES LITIGATION: As a leader in the securities litigation field, the Firm is a trusted advisor to more than 250 institutional investors with collective assets under management in excess of \$2.5 trillion. Our practice focuses on portfolio monitoring and domestic and international securities litigation for sophisticated institutional investors. Since the passage of the Private Securities Litigation Reform Act of 1995, we have recovered more than \$18 billion in the aggregate. Our success is driven by the Firm's robust infrastructure, which includes one of the largest in-house investigative teams in the plaintiffs' bar.

CORPORATE GOVERNANCE AND SHAREHOLDER RIGHTS LITIGATION: Our breadth of experience in shareholder advocacy has also taken us to Delaware, where we press for corporate reform through our Wilmington office. These efforts have already earned us a string of enviable successes, including one of the largest derivative settlements ever achieved in the Court of Chancery, a \$153.75 million settlement on behalf of shareholders in *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*.

CONSUMER, CYBERSECURITY, AND DATA PRIVACY PRACTICE: Labaton Sucharow is dedicated to putting our expertise to work on behalf of consumers who have been wronged by fraud in the marketplace. Built on our world-class litigation skills, deep understanding of federal and state rules and regulations, and an unwavering commitment to fairness, our Consumer, Cybersecurity, and Data Privacy Practice focuses on protecting consumers and improving the standards of business conduct through litigation and reform. Our team achieved a historic \$650 million settlement in the *In re Facebook Biometric Information Privacy Litigation* matter—the largest consumer data privacy settlement ever, and one of the first cases asserting biometric privacy rights of consumers under Illinois' Biometric Information Privacy Act (BIPA).

WHISTLEBLOWER LITIGATION: Our Whistleblower Representation Practice leverages the Firm's securities litigation expertise to protect and advocate for individuals who report violations of the federal securities laws.

"Labaton Sucharow is 'superb' and 'at the top of its game.' The Firm's team of 'hard-working lawyers...push themselves to thoroughly investigate the facts' and conduct 'very diligent research.'"

– The Legal 500

SECURITIES CLASS ACTION LITIGATION

Labaton Sucharow is a leader in securities litigation and a trusted advisor to more than 250 institutional investors. Since the passage of the Private Securities Litigation Reform Act of 1995 (PSLRA), the Firm has recovered more than \$18 billion in the aggregate for injured investors through securities class actions prosecuted throughout the United States and against numerous public corporations and other corporate wrongdoers.

These notable recoveries would not be possible without our exhaustive case evaluation process. The Firm has developed a proprietary system for portfolio monitoring and reporting on domestic and international securities litigation, and currently provides these services to more than 250 institutional investors, which manage collective assets of more than \$2.5 trillion. The Firm's in-house investigators also gather crucial details to support our cases, whereas other firms rely on outside vendors or fail to conduct any confidential investigation at all.

As a result of our thorough case evaluation process, our securities litigators can focus solely on cases with strong merits. The benefits of our selective approach are reflected in the low dismissal rate of the securities cases we pursue, a rate well below the industry average. Over the past decade, we have successfully prosecuted headline-making class actions against AIG, Bear Stearns, Massey Energy, Schering-Plough, Fannie Mae, Amgen, Facebook, and SCANA, among others.

NOTABLE SUCCESSES

Labaton Sucharow has achieved notable successes in financial and securities class actions on behalf of investors, including the following:

In re American International Group, Inc. Securities Litigation, No. 04-cv- 8141 (S.D.N.Y.)

In one of the most complex and challenging securities cases in history, Labaton Sucharow secured more than **\$1 billion** in recoveries on behalf of co-lead plaintiffs Ohio Public Employees Retirement System, State Teachers Retirement System of Ohio, and Ohio Police and Fire Pension Fund in a case arising from allegations of bid rigging and accounting fraud. To achieve this remarkable recovery, the Firm took over 100 depositions and briefed 22 motions to dismiss. The full settlement entailed a \$725 million settlement with American International Group (AIG), \$97.5 million settlement with AIG's auditors, \$115 million settlement with former AIG officers and related defendants, and an additional \$72 million settlement with General Reinsurance Corporation, which was approved by the Second Circuit on September 11, 2013.

In re Countrywide Financial Corp. Securities Litigation, No. 07-cv-05295 (C.D. Cal.)

Labaton Sucharow, as lead counsel for the New York State Common Retirement Fund and the five New York City public pension funds, sued one of the nation's largest issuers of mortgage loans for credit risk misrepresentations. The Firm's focused investigation and discovery efforts uncovered incriminating evidence that led to a \$624 million settlement for investors. On February 25, 2011,

the court granted final approval to the settlement, which is one of the top 20 securities class action settlements in the history of the PSLRA.

In re HealthSouth Corp. Securities Litigation, No. 03-cv-01500 (N.D. Ala.)

Labaton Sucharow served as co-lead counsel to New Mexico State Investment Council in a case stemming from one of the largest frauds ever perpetrated in the healthcare industry. Recovering \$671 million for the class, the settlement is one of the top 15 securities class action settlements of all time. In early 2006, lead plaintiffs negotiated a settlement of \$445 million with defendant HealthSouth. On June 12, 2009, the court also granted final approval to a \$109 million settlement with defendant Ernst & Young LLP. In addition, on July 26, 2010, the court granted final approval to a \$117 million partial settlement with the remaining principal defendants in the case—UBS AG, UBS Warburg LLC, Howard Capek, Benjamin Lorello, and William McGahan.

In re Schering-Plough/ENHANCE Securities Litigation, No. 08-cv-00397 (D. N.J.)

As co-lead counsel, Labaton Sucharow obtained a \$473 million settlement on behalf of co-lead plaintiff Massachusetts Pension Reserves Investment Management Board. After five years of litigation, and three weeks before trial, the settlement was approved on October 1, 2013. This recovery is one of the largest securities fraud class action settlements against a pharmaceutical company. The Special Masters' Report noted, "The outstanding result achieved for the class is the direct product of outstanding skill and perseverance by Co-Lead Counsel . . . no one else . . . could have produced the result here—no government agency or corporate litigant to lead the charge and the Settlement Fund is the product solely of the efforts of Plaintiffs' Counsel."

In re Waste Management, Inc. Securities Litigation, No. H-99-2183 (S.D. Tex.)

In 2002, the court approved an extraordinary settlement that provided for the recovery of \$457 million in cash, plus an array of far-reaching corporate governance measures. Labaton Sucharow represented lead plaintiff Connecticut Retirement Plans and Trust Funds. At that time, this settlement was the largest common fund settlement of a securities action achieved in any court within the Fifth Circuit and the third largest achieved in any federal court in the nation. Judge Harmon noted, among other things, that Labaton Sucharow "obtained an outstanding result by virtue of the quality of the work and vigorous representation of the class."

In re General Motors Corp. Securities Litigation, No. 06-cv-1749 (E.D. Mich.)

As co-lead counsel in a case against automotive giant General Motors (GM) and its auditor Deloitte & Touche LLP (Deloitte), Labaton Sucharow obtained a settlement of \$303 million—one of the largest settlements ever secured in the early stages of a securities fraud case. Lead plaintiff Deka Investment GmbH alleged that GM, its officers, and its outside auditor overstated GM's income by billions of dollars and GM's operating cash flows by tens of billions of dollars, through a series of accounting manipulations. The final settlement, approved on July 21, 2008, consisted of a cash payment of \$277 million by GM and \$26 million in cash from Deloitte.

Wyatt v. El Paso Corp., No. H-02-2717 (S.D. Tex.)

Labaton Sucharow secured a \$285 million class action settlement against the El Paso Corporation on behalf of the co-lead plaintiff, an individual. The case involved a securities fraud stemming from

the company's inflated earnings statements, which cost shareholders hundreds of millions of dollars during a four-year span. On March 6, 2007, the court approved the settlement and also commended the efficiency with which the case had been prosecuted, particularly in light of the complexity of the allegations and the legal issues.

In re Bear Stearns Cos., Inc. Securities, Derivative & ERISA Litigation, No. 08-cv-2793 (S.D.N.Y.)

Labaton Sucharow served as co-lead counsel, representing lead plaintiff State of Michigan Retirement Systems and the class. The action alleged that Bear Stearns and certain officers and directors made misstatements and omissions in connection with Bear Stearns' financial condition, including losses in the value of its mortgage-backed assets and Bear Stearns' risk profile and liquidity. The action further claimed that Bear Stearns' outside auditor, Deloitte & Touche LLP, made misstatements and omissions in connection with its audits of Bear Stearns' financial statements for fiscal years 2006 and 2007. Our prosecution of this action required us to develop a detailed understanding of the arcane world of packaging and selling subprime mortgages. Our complaint has been called a "tutorial" for plaintiffs and defendants alike in this fast-evolving area. After surviving motions to dismiss, on November 9, 2012, the court granted final approval to settlements with the defendant Bear Stearns for \$275 million and with Deloitte for \$19.9 million.

In re Massey Energy Co. Securities Litigation, No. 10-CV-00689 (S.D. W.Va.)

As co-lead counsel representing the Commonwealth of Massachusetts Pension Reserves Investment Trust, Labaton Sucharow achieved a \$265 million all-cash settlement in a case arising from one of the most notorious mining disasters in US history. On June 4, 2014, the settlement was reached with Alpha Natural Resources, Massey's parent company. Investors alleged that Massey falsely told investors it had embarked on safety improvement initiatives and presented a new corporate image following a deadly fire at one of its coalmines in 2006. After another devastating explosion, which killed 29 miners in 2010, Massey's market capitalization dropped by more than \$3 billion. Judge Irene C. Berger noted, "Class counsel has done an expert job of representing all of the class members to reach an excellent resolution and maximize recovery for the class."

Eastwood Enterprises, LLC v. Farha (WellCare Securities Litigation), No. 07-cv-1940 (M.D. Fla.)

On behalf of the New Mexico State Investment Council and the Public Employees Retirement Association of New Mexico, Labaton Sucharow served as co-lead counsel and negotiated a \$200 million settlement over allegations that WellCare Health Plans, Inc., a Florida-based healthcare service provider, disguised its profitability by overcharging state Medicaid programs. Further, under the terms of the settlement approved by the court on May 4, 2011, WellCare agreed to pay an additional \$25 million in cash if, at any time in the next three years, WellCare was acquired or otherwise experienced a change in control at a share price of \$30 or more after adjustments for dilution or stock splits.

In re SCANA Corporation Securities Litigation, No. 17-cv-2616 (D.S.C.)

Labaton Sucharow served as co-lead counsel in this matter against a regulated electric and natural gas public utility, representing the class and co-lead plaintiff West Virginia Investment Management

Board. The action alleges that for a period of two years, the company and certain of its executives made a series of misstatements and omissions regarding the progress, schedule, costs, and oversight of a key nuclear reactor project in South Carolina. Labaton Sucharow conducted an extensive investigation into the alleged fraud, including by interviewing 69 former SCANA employees and other individuals who worked on the nuclear project. In addition, Labaton Sucharow obtained more than 1,500 documents from South Carolina regulatory agencies, SCANA's state-owned junior partner on the nuclear project, and a South Carolina newspaper, among others, pursuant to the South Carolina Freedom of Information Act (FOIA). This information ultimately provided the foundation for our amended complaint and was relied upon by the Court extensively in its opinion denying defendants' motion to dismiss. In late 2019, we secured a \$192.5 million recovery for investors—the largest securities fraud settlement in the history of the District of South Carolina.

In re Bristol-Myers Squibb Securities Litigation, No. 00-cv-1990 (D.N.J.)

Labaton Sucharow served as lead counsel representing the lead plaintiff, union-owned LongView Collective Investment Fund of the Amalgamated Bank (LongView), against drug company Bristol-Myers Squibb (BMS). LongView claimed that the company's press release touting its new blood pressure medication, Vanlev, left out critical information—that undisclosed results from the clinical trials indicated that Vanlev appeared to have life-threatening side effects. The FDA expressed serious concerns about these side effects and BMS released a statement that it was withdrawing the drug's FDA application, resulting in the company's stock price falling and losing nearly 30 percent of its value in a single day. After a five-year battle, we won relief on two critical fronts. First, we secured a \$185 million recovery for shareholders, and second, we negotiated major reforms to the company's drug development process that will have a significant impact on consumers and medical professionals across the globe. Due to our advocacy, BMS must now disclose the results of clinical studies on all of its drugs marketed in any country.

In re Fannie Mae 2008 Securities Litigation, No. 08-cv-7831 (S.D.N.Y.)

As co-lead counsel representing co-lead plaintiff Boston Retirement System, Labaton Sucharow secured a \$170 million settlement on March 3, 2015, with Fannie Mae. The lead plaintiffs alleged that Fannie Mae and certain of its current and former senior officers violated federal securities laws, by making false and misleading statements concerning the company's internal controls and risk management with respect to Alt-A and subprime mortgages. The lead plaintiffs also alleged that defendants made misstatements with respect to Fannie Mae's core capital, deferred tax assets, other-than-temporary losses, and loss reserves. Labaton Sucharow successfully argued that investors' losses were caused by Fannie Mae's misrepresentations and poor risk management, rather than by the financial crisis. This settlement is a significant feat, particularly following the unfavorable result in a similar case involving investors in Fannie Mae's sibling company, Freddie Mac.

In re Broadcom Corp. Class Action Litigation, No. 06-cv-05036 (C.D. Cal.)

Labaton Sucharow served as lead counsel on behalf of lead plaintiff New Mexico State Investment Council in a case stemming from Broadcom Corp.'s \$2.2 billion restatement of its historic financial statements for 1998-2005. In August 2010, the court granted final approval of a \$160.5 million settlement with Broadcom and two individual defendants to resolve this matter. It is the second largest up-front cash settlement ever recovered from a company accused of options backdating.

Following a Ninth Circuit ruling confirming that outside auditors are subject to the same pleading standards as all other defendants, the district court denied the motion by Broadcom’s auditor, Ernst & Young, to dismiss on the ground of loss causation. This ruling is a major victory for the class and a landmark decision by the court—the first of its kind in a case arising from stock-options backdating. In October 2012, the court approved a \$13 million settlement with Ernst & Young.

In re Satyam Computer Services Ltd. Securities Litigation, No. 09-md-2027 (S.D.N.Y.)

Satyam Computer Services Ltd. (Satyam), referred to as “India’s Enron,” engaged in one of the most egregious frauds on record. In a case that rivals the Enron and Bernie Madoff scandals, the Firm represented lead plaintiff UK-based Mineworkers’ Pension Scheme, which alleged that Satyam, related entities, Satyam’s auditors, and certain directors and officers made materially false and misleading statements to the investing public about the company’s earnings and assets, artificially inflating the price of Satyam securities. On September 13, 2011, the court granted final approval to a settlement with Satyam of \$125 million and a settlement with the company’s auditor, PricewaterhouseCoopers, in the amount of \$25.5 million. Judge Barbara S. Jones commended lead counsel during the final approval hearing, noting the “quality of representation[,] which I found to be very high.”

In re Mercury Interactive Corp. Securities Litigation, No. 05-cv-3395 (N.D. Cal.)

Labaton Sucharow served as co-lead counsel on behalf of co-lead plaintiff Steamship Trade Association/International Longshoremen’s Association Pension Fund, which alleged that Mercury Interactive Corp. (Mercury) backdated option grants used to compensate employees and officers of the company. Mercury’s former CEO, CFO, and General Counsel actively participated in and benefited from the options backdating scheme, which came at the expense of the company’s shareholders and the investing public. On September 25, 2008, the court granted final approval of the \$117.5 million settlement.

In Re: CannTrust Holdings Inc. Securities Litigation, No. 1:19-cv-06396-JPO (S.D.N.Y.)

As U.S. lead counsel, Labaton Sucharow represents lead plaintiffs Granite Point Master Fund, LP; Granite Point Capital; and Scorpion Focused Ideas Fund in this action against CannTrust Holdings Inc., a cannabis company primarily traded on the Toronto Stock Exchange and the New York Stock Exchange. Class actions against the company were commenced in both the U.S. and Canada. The U.S. class action asserts CannTrust made materially false and misleading statements and omissions concerning its compliance with relevant cannabis regulations and an alleged scheme to increase its cannabis production. The parties reached a landmark settlement totaling CA\$129.5 million to resolve claims in both countries. The U.S. settlement was approved on December 2, 2021.

In re Oppenheimer Champion Fund Securities Fraud Class Actions, No. 09- cv-525 (D. Colo.) and In re Core Bond Fund, No. 09-cv-1186 (D. Colo.)

Labaton Sucharow served as lead counsel and represented individuals and the proposed class in two related securities class actions brought against Oppenheimer Funds, Inc., among others, and certain officers and trustees of two funds—Oppenheimer Core Bond Fund and Oppenheimer

Champion Income Fund. The lawsuits alleged that the investment policies followed by the funds resulted in investor losses when the funds suffered drops in net asset value although they were presented as safe and conservative investments to consumers. In May 2011, the Firm achieved settlements amounting to \$100 million: \$52.5 million in *In re Oppenheimer Champion Fund Securities Fraud Class Actions* and a \$47.5 million settlement in *In re Core Bond Fund*.

In re Computer Sciences Corporation Securities Litigation, No. 11-cv-610 (E.D. Va.)

As lead counsel representing Ontario Teachers' Pension Plan Board, Labaton Sucharow secured a \$97.5 million settlement in this "rocket docket" case involving accounting fraud. The settlement was the third largest all-cash recovery in a securities class action in the Fourth Circuit and the second largest all-cash recovery in such a case in the Eastern District of Virginia. The plaintiffs alleged that IT consulting and outsourcing company, Computer Sciences Corporation (CSC), fraudulently inflated its stock price by misrepresenting and omitting the truth about the state of its most visible contract and the state of its internal controls. In particular, the plaintiffs alleged that CSC assured the market that it was performing on a \$5.4 billion contract with the UK National Health Service when CSC internally knew that it could not deliver on the contract, departed from the terms of the contract, and as a result, was not properly accounting for the contract. Judge T.S. Ellis III stated, "I have no doubt—that the work product I saw was always of the highest quality for both sides."

In re Nielsen Holdings PLC Securities Litigation, No. 18-7143 (S.D.N.Y.)

As lead counsel representing Public Employees' Retirement System of Mississippi, Labaton Sucharow achieved a \$73 million settlement (pending court approval) in a securities class action against the data analytics company Nielsen Holdings PLC over allegations the company misrepresented the strength and resiliency of its business and the impact of the European Union's General Data Protection Regulation (GDPR). On January 4, 2021, the Firm overcame defendants' motion to dismiss, and the case advanced into discovery. We mediated and ultimately reached an agreement to settle the matter for \$73 million in February 2022. The settlement was preliminarily approved by the court on April 4, 2022.

In re Resideo Technologies Inc. Securities Litigation, No. 19-cv-2863 (D. Minn.)

The Firm serves as co-lead counsel representing Naya Capital Management in an action alleging Resideo failed to disclose the negative effects of a spin-off on the company's product sales, supply chain, and gross margins, and misrepresented the strength of its financial forecasts. On March 30, 2021, the Firm overcame defendants' motion to dismiss in its entirety, and discovery in the action commenced promptly. Discussion of resolving the claims began in January 2021, resulting in an agreement in principle to settle the action for \$55 million July 2021. The \$55 million settlement was granted final approval on March 24, 2022.

Public Employees' Retirement System of Mississippi v. Endo Int'l plc, et al., No. 2017-02081-MJ (Pa. Ct. of C.P. Montgomery Cty.)

Labaton Sucharow served as lead counsel in a securities class action against Endo Pharmaceuticals. The case settled for \$50 million, the largest class settlement obtained in any court pursuant to the Securities Act of 1933 in connection with a secondary public offering. The action alleged that Endo

failed to disclose adverse trends facing its generic drugs division in advance of a secondary public offering that raised \$2 billion to finance the acquisition of Par Pharmaceuticals in 2015. The Firm overcame several procedural hurdles to reach this historic settlement, including successfully opposing defendants' attempts to remove the case to federal court and to dismiss the class complaint in state court. The court approved the settlement on December 5, 2019.

In re JELD-WEN Holding, Inc. Securities Litigation, No. 3:20-cv-00112-JAG
(E.D. Va.)

Representing Public Employees' Retirement System of Mississippi, Labaton Sucharow is court-appointed co-lead counsel in a securities class action lawsuit against JELD-WEN Holding, Inc. and certain of its executives related to allegedly false and misleading statements and omissions concerning JELD-WEN's allegedly anticompetitive conduct and financial results in the doorskins and interior molded door markets and the merit of a lawsuit filed against JELD-WEN by an interior door manufacturer. The parties reached an agreement to settle the action for \$40 million in April 2021. The court granted final approval of the settlement on November 22, 2021.

City of Warren Police and Fire Retirement System v. World Wrestling Entertainment, Inc. et al., No. 20-cv-02031 (S.D.N.Y.)

Labaton Sucharow served as court-appointed lead counsel in a securities class action against World Wrestling Entertainment, Inc. (WWE). The Firm represented Firefighters Pension System of the City of Kansas City Missouri Trust in the action alleging WWE defrauded investors by making false and misleading statements in connection with certain of its key overseas businesses in the Middle East North Africa region (MENA) from February 7, 2019, through February 5, 2020. The lead plaintiff further alleged that the price of WWE publicly traded common stock was artificially inflated as a result of the company's allegedly false and misleading statements and omissions, and that the price declined when the truth was allegedly revealed through a series of partial revelations. The parties reached an agreement to settle the action for in November 2020, and on June 30, 2021, the court granted final approval of the \$39 million settlement.

Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., No. 16-cv-05198 (N.D. Ill.)

In a case that underscores the skill of our in-house investigative team, Labaton Sucharow secured a \$27.5 million recovery in an action alleging that DeVry Education Group, Inc. issued false statements to investors about employment and salary statistics for DeVry University graduates. The Firm took over as lead counsel after a consolidated class action complaint and an amended complaint were both dismissed. Labaton Sucharow filed a third amended complaint on January 29, 2018, which included additional allegations based on internal documents obtained from government entities through the Freedom of Information Act and allegations from 13 new confidential witnesses who worked for DeVry. In denying defendants' motion to dismiss, the court concluded that the "additional allegations . . . alter[ed] the alleged picture with respect to scienter" and showed "with a degree of particularity . . . that the problems with DeVry's [representations] . . . were broad in scope and magnitude."

Vancouver Alumni Asset Holdings Inc. v. Daimler A.G., et al., No. 16-cv-2942 (C.D. Cal)

Serving as lead counsel on behalf of Public School Retirement System of Kansas City, Missouri, Labaton Sucharow secured a \$19 million settlement in a class action against automaker Daimler AG. The action arose out of Daimler’s misstatements and omissions touting its Mercedes-Benz diesel vehicles as “green” when independent tests showed that under normal driving conditions the vehicles exceeded the nitrous oxide emissions levels set by U.S. and E.U. regulators. Defendants lodged two motions to dismiss the case. However, the *Daimler* litigation team was able to overcome both challenges, and on May 31, 2017, the court granted in part and denied in part Defendants’ motions and allowed the case to proceed to discovery. The court then stayed the action after the U.S. Department of Justice intervened. The *Daimler* litigation team worked with the DOJ and defendants to partially lift the stay in order to allow lead plaintiffs to seek limited discovery. Thereafter, in December 2019, the parties agreed to settle the action for \$19 million.

Avila v. LifeLock, Inc., No. 15-cv-1398 (D. Ariz.)

As co-lead counsel representing Oklahoma Police Pension and Retirement System and Oklahoma Firefighters Pension and Retirement System, the Firm secured a \$20 million settlement in a securities class action against LifeLock. The action alleged that LifeLock misrepresented the capabilities of its identity theft alerts to investors. While LifeLock repeatedly touted the “proactive,” “near real-time” nature of its alerts, in reality the timeliness of such alerts to customers did not resemble a near real-time basis. The LifeLock litigation team played a critical role in securing the \$20 million settlement. After being dismissed by the District Court twice, the LifeLock team was able to successfully appeal the case to the Ninth Circuit and secured a reversal of the District Court’s dismissals. The case settled shortly after being remanded to the District Court. On July 22, 2020, the court issued an order granting final approval of the settlement.

In re Prothena Corporation PLC Securities Litigation, No. 18-cv-6425 (S.D.N.Y)

Labaton Sucharow, as co-lead counsel, secured a \$15.75 million recovery in a securities class action against development-stage biotechnology company, Prothena Corp. The action alleged that Prothena and certain of its senior executives misleadingly cited the results of an ongoing clinical study of NEOD001—a drug designed to treat amyloid light chain amyloidosis and one of Prothena’s principal assets. Despite telling investors that early phases of testing were successful, Defendants later revealed that the drug was “substantially less effective than a placebo.” Upon this news, Prothena’s stock price dropped nearly 70 percent. On August 26, 2019, the parties executed a Stipulation and Agreement of Settlement for \$15.75 million. Final Judgment was entered on December 4, 2019.

In re Acuity Brands, Inc. Securities Litigation, No. 18-cv-02140 (N.D. Ga.)

Labaton Sucharow serves as co-lead counsel representing Public Employees' Retirement System of Mississippi in a securities class action lawsuit against Acuity Brands, Inc., a leading provider of lighting solutions for commercial, institutional industrial, infrastructure, and residential applications throughout North America and select international markets. The suit alleges that Acuity misled investors about the impact of increased competition on its business, including its relationship with its largest retail customer, Home Depot. Despite defendants’ efforts, the court denied their motion

to dismiss in significant part in August 2019 and granted class certification in August 2020, rejecting their arguments in full. Defendants appealed the class certification order to the Eleventh Circuit Court of Appeals, which the Firm vigorously opposed. Subsequently, the parties mediated and agreed on a \$15.75 million settlement-in-principle in October 2021. In light of the settlement-in-principle, the Eleventh Circuit stayed the appeal and removed the case from the docket. The court preliminarily approved the settlement on December 23, 2021.

LEAD COUNSEL APPOINTMENTS IN ONGOING LITIGATION

Labaton Sucharow's institutional investor clients are regularly chosen by federal judges to serve as lead plaintiffs in prominent securities litigations brought under the PSLRA. Dozens of public pension funds and union funds have selected Labaton Sucharow to represent them in federal securities class actions and advise them as securities litigation/investigation counsel.

In re PG&E Corporation Securities Litigation, No. 18-cv-03509 (N.D. Cal.)

Labaton Sucharow represents the Public Employees Retirement Association of New Mexico in a securities class action lawsuit against PG&E related to wildfires that devastated Northern California in 2017.

Murphy v. Precision Castparts Corp., No. 16-cv-00521 (D. Or.)

Labaton Sucharow represents Oklahoma Firefighters Pension and Retirement System in a securities class action against Precision Castparts Corp., an aviation parts manufacturing conglomerate that produces complex metal parts primarily marketed to industrial and aerospace customers.

In re Goldman Sachs Group, Inc. Securities Litigation, No. 10-cv-03461 (S.D.N.Y.)

Labaton Sucharow represents Arkansas Teacher Retirement System in a high-profile litigation based on the scandals involving Goldman Sachs' sales of the Abacus CDO.

Meitav Dash Provident Funds and Pension Ltd., et al. v. Spirit AeroSystems Holdings, Inc. et al., No. 20-cv-00054 (N.D. Okla.)

Labaton Sucharow represents Meitav Dash Provident Funds and Pension Ltd. in a securities class action against Spirit AeroSystems Holdings alleging misrepresentation of production rates and the effectiveness of its internal controls over financial reporting relating to production of Boeing planes.

Boston Retirement System v. Uber Technologies, Inc., et al., No. 19-cv-6361-RS (N.D. Cal.)

Labaton Sucharow serves as lead counsel in a securities class action against Uber Technologies, Inc., arising in connection with the company's more than \$8 billion IPO. The action alleges that Uber's IPO registration statement and prospectus made material misstatements and omissions in violation of Sections 11, 12(a)(2), and 15 of the Securities Act of 1933.

Oklahoma Firefighters Pension and Retirement System v. Peabody Energy Corporation et al., No. 20-cv-8024 (S.D.N.Y.)

Labaton Sucharow represents Oklahoma Firefighters Pension and Retirement System in a securities class action against Peabody Energy Corp arising from inadequate safety practices at the company's north Australian mine.

Hill v. Silver Lake Group, L.L.C. (Intelsat S.A.), No. 20-CV-2341 (N.D. Cal.)

The court appointed Labaton Sucharow as lead counsel in the *Intelsat* securities litigation, noting that the Firm "has strong experience prosecuting securities class actions and has served as lead counsel in many high-profile securities actions.

In re Allstate Corporation Securities Litigation, No. 16-cv-10510 (N.D. Ill.)

Labaton Sucharow serves as lead counsel representing the Carpenters Pension Trust Fund for Northern California, the Carpenters Annuity Trust Fund for Northern California, and the City of Providence Employee Retirement System in a securities case against The Allstate Corporation, the company's CEO Thomas J. Wilson, and its former President of Allstate Protection Lines Matthew E. Winter.

AWARDS AND ACCOLADES

CONSISTENTLY RANKED AS A LEADING FIRM:



The *National Law Journal* “2022 Elite Trial Lawyers” recognized Labaton Sucharow as the **2022 Securities Law Firm of the Year** and **2022 Shareholder Rights Litigation Firm of the Year**. The Firm was also recognized as a finalist for **2022 Class Action Litigation Firm of the Year**. Over the last three years, Labaton Sucharow has received five Elite Trial Lawyers Law Firm of the Year recognitions, including Class Action, Securities, Shareholder Rights Litigation, and Immigration.



Benchmark Litigation recognized Labaton Sucharow both nationally and regionally, in **New York** and **Delaware**, in its 2023 edition and named 8 Partners as **Litigation Stars** and **Future Stars** across the U.S. The Firm received top rankings in the **Securities** and **Dispute Resolution** categories. The publication also named the Firm a “**Top Plaintiffs Firms**” in the nation.



Labaton Sucharow is recognized by *Chambers USA 2022* among the leading plaintiffs' firms in the nation, receiving a total of three practice group rankings and eight partners ranked or recognized. *Chambers* notes that the Firm is “**top flight all-round,**” a “**very high-quality practice,**” with “**good, sensible lawyers.**” Labaton Sucharow was also recognized as a finalist for **Chambers’ D&I Awards: North America 2022** in the category of Outstanding Firm.



Labaton Sucharow has been recognized as one of the **Nation’s Best Plaintiffs’ Firms** by *The Legal 500*. In 2022, the Firm earned a **Tier 1 ranking in Securities Litigation** and was also ranked for its excellence in **M&A Litigation**. 8 Labaton Sucharow attorneys were ranked or recommended in the guide noting the Firm's “**very deep bench of strong litigators.**”



Lawdragon recognized 16 Labaton Sucharow attorneys among the **500 Leading Plaintiff Financial Lawyers** in the country in their 2022 guide. The guide recognizes attorneys that are “the best in the nation – many would say the world – at representing plaintiffs.” *Lawdragon* also included one of our Partners in their **Hall of Fame**.



Labaton Sucharow was named a **2021 Securities Group of the Year** by *Law360*. The award recognizes the attorneys behind significant litigation wins and major deals that resonated throughout the legal industry.



Labaton Sucharow was named **Diverse Women Lawyers – North America Firm of the Year** by *Euromoney’s* 2022 Women in Business Law Americas Awards. The Firm was also named a finalist in the Americas Firm of the Year, Women in Business Law, Career Development, Gender Diversity, and United States – North East categories. *Euromoney’s* WIBL Awards recognizes firms advancing diversity in the profession.

PRO BONO AND COMMUNITY INVOLVEMENT

It is not enough to achieve the highest accolades from the bench and bar, and demand the very best of our people. At Labaton Sucharow, we believe that community service is a crucial aspect of practicing law and that pursuing justice is at the heart of our commitment to our profession and the community at large. As a result, we shine in pro bono legal representation and as public and community volunteers.

Our Firm has devoted significant resources to pro bono legal work and public and community service. In fact, our Pro Bono practice is recognized by *The National Law Journal* as winner of the “**Law Firm of the Year**” in Immigration for 2019 and 2020. We support and encourage individual attorneys to volunteer and take on leadership positions in charitable organizations, which have resulted in such honors as the Alliance for Justice’s “**Champion of Justice**” award, a tenant advocacy organization’s “**Volunteer and Leadership Award,**” and board participation for the Ovarian Cancer Research Fund.

Our continued support of charitable and nonprofit organizations, such as the Legal Aid Society, City Bar Justice Center, Public Justice Foundation, Change for Kids, Sidney Hillman Foundation, and various food banks and other organizations, embodies our longstanding commitment to fairness, equality, and opportunity for everyone in our community, which is manifest in the many programs in which we participate.

Immigration Justice Campaign

Our attorneys have scored numerous victories on behalf of asylum seekers around the world, particularly from Cuba and Uganda, as well as in reuniting children separated at the border. Our Firm also helped by providing housing, clothing, and financial assistance to those who literally came to the U.S. with only the clothes on their back.

Advocacy for the Mentally Ill

Our attorneys have provided pro bono representation to mentally ill tenants facing eviction and worked with a tenants’ advocacy organization defending the rights of city residents.

Federal Pro Se Legal Assistance Project

We represented pro se litigants who could not afford legal counsel through an Eastern District of New York clinic. We assisted those pursuing claims for racial and religious discrimination, helped navigate complex procedural issues involving allegations of a defamatory accusation made to undermine our client’s disability benefits, and assisted a small business owner allegedly sued for unpaid wages by a stranger.

New York City Bar Association Thurgood Marshall Scholar

We are involved in the Thurgood Marshall Summer Law Internship Program, which places diverse New York City public high school students with legal employers for the summer. This program runs

annually, from April through August, and is part of the City Bar's continuing efforts to enhance the diversity of the legal profession.

Diversity Fellowship Program

We provide a fellowship as a key component of the Firm's objective to recruit, retain, and advance diverse law students. Positions are offered to exceptional law students who can contribute to the diversity of our organization and the broader legal community.

Brooklyn Law School Securities Arbitration Clinic

Our Firm partnered with Brooklyn Law School to establish a securities arbitration clinic. The program, which ran for five years, assisted defrauded individual investors who could not otherwise afford to pay for legal counsel and provided students with real-world experience in securities arbitration and litigation.

Change for Kids

We support Change for Kids (CFK) as a strategic partner of P.S. 182 in East Harlem. One school at a time, CFK rallies communities to provide a broad range of essential educational opportunities at under-resourced public elementary schools, as well as enables students to discover their unique strengths and develop the requisite confidence to achieve.

Lawyers' Committee for Civil Rights Under Law

We are long-time supporters of the Lawyers' Committee for Civil Rights Under Law, a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy. The Lawyers' Committee involves the private bar in providing legal services to address racial discrimination. We have been involved at the federal level on U.S. Supreme Court nominee analyses and national voters' rights initiatives. Edward Labaton is a member of the Board of Directors.

Sidney Hillman Foundation

Our Firm supports the Sidney Hillman Foundation. Created in honor of the first president of the Amalgamated Clothing Workers of America, Sidney Hillman, the foundation supports investigative and progressive journalism by awarding monthly and yearly prizes.

COMMITMENT TO DIVERSITY, EQUITY, AND INCLUSION

Labaton Sucharow

DEI
DIVERSITY
EQUITY &
INCLUSION

“Now, more than ever, it is important to focus on our diverse talent and create opportunities for young lawyers to become our future leaders. We are proud that our DEI Committee provides a place for our diverse lawyers to expand their networks and spheres of influence, develop their skills, and find the sponsorship and mentorship necessary to rise and realize their full potential.” – *Carol C. Villegas, Partner*

Over half a century, Labaton Sucharow has earned global recognition for its success in securing historic recoveries and reforms for investors and consumers. We strive to attain the same level of achievement in promoting fairness and equality within our practice and throughout the legal profession and believe this can be realized by building and maintaining a team of professionals with a broad range of backgrounds, orientations, and interests. Partner Christine M. Fox serves as Chair of the Committee.

As a national law firm serving a global clientele, diversity is vital to reaching the right result and provides us with distinct points of view from which to address each client’s most pressing needs and complex legal challenges. Problem solving is at the core of what we do...and equity and inclusion serve as a catalyst for understanding and leveraging the myriad strengths of our diverse workforce.

Research demonstrates that diversity in background, gender, and ethnicity leads to smarter and more informed decision-making, as well as positive social impact that addresses the imbalance in business today—leading to generations of greater returns for all. We remain committed to developing initiatives that focus on tangible diversity, equity, and inclusion goals involving recruiting, professional development, retention, and advancement of diverse and minority candidates, while also raising awareness and supporting real change inside and outside our Firm.

In recognition of our efforts, we have been named Diverse Women Lawyers – North America Firm of the Year by *Euromoney* and have been consistently shortlisted for their Women in Business Law Awards, including in the Americas Firm of the Year, Gender Diversity Initiative, Women in Business Law, United States – North East, Career Development, and Talent Management categories. In addition, the Firm is the recipient of *The National Law Journal* “Elite Trial Lawyers” inaugural Diversity Initiative Award and has been selected as a finalist for *Chambers & Partners’* Diversity and Inclusion Awards in the Outstanding Firm and Inclusive Firm of the Year categories. Our Firm understands the importance of extending leadership positions to diverse lawyers and is committed to investing time and resources to develop the next generation of leaders and counselors. We actively recruit, mentor, and promote to partnership minority and female lawyers.



Labaton Sucharow **WOMEN'S INITIATIVE**



Women's Networking and Mentoring Initiative

Labaton Sucharow is the first securities litigation firm with a dedicated program to foster growth, leadership, and advancement of female attorneys. Established more than a decade ago, our Women's Initiative has hosted seminars, workshops, and networking events that encourage the advancement of female lawyers and staff, and bolster their participation as industry collaborators and celebrated thought innovators. We engage important women who inspire us by sharing their experience, wisdom, and lessons learned. We offer workshops on subject matter that ranges from professional development, negotiation, and public speaking, to business development and gender inequality in the law today.

Institutional Investing in Women and Minority-Led Investment Firms

Our Women's Initiative hosts an annual event on institutional investing in women and minority-led investment firms that was shortlisted for a *Chambers & Partners' Diversity & Inclusion* award. By bringing pension funds, diverse managers, hedge funds, investment consultants, and legal counsel together and elevating the voices of diverse women, we address the importance and advancement of diversity investing. Our 2018 inaugural event was shortlisted among *Euromoney's Best Gender Diversity Initiative*.

MINORITY SCHOLARSHIP AND INTERNSHIP

To take an active stance in introducing minority students to our practice and the legal profession, we established the Labaton Sucharow Minority Scholarship and Internship years ago. Annually, we present a grant and Summer Associate position to a first-year minority student from a metropolitan New York law school who has demonstrated academic excellence, community commitment, and unwavering personal integrity. Several past recipients are now full-time attorneys at the Firm. We also offer two annual summer internships to Hunter College students.

WHAT THE BENCH SAYS ABOUT US

The Honorable Judge Lewis Liman of the Southern District of New York, upon appointing Labaton Sucharow as co-lead counsel, noted the following:

"Historically, there has been a dearth of diversity within the legal profession. Although progress has been made...still just one tenth of lawyers are people of color and just over a third are women. A firm's commitment to diversity...demonstrate[s] that it shares with the courts a commitment to the values of equal justice under law...[and] is one that is able to attract, train, and retain lawyers with the most latent talent and commitment regardless of race, ethnicity, gender, or sexual orientation."

PROFESSIONAL PROFILES



Christopher J. Keller Chairman

140 Broadway
New York, NY 10005
212.907.0853
ckeller@labaton.com

Christopher J. Keller is Chairman of Labaton Sucharow LLP and head of the Firm's Executive Committee. He is based in the Firm's New York office. Chris focuses on complex securities litigation cases and works with institutional investor clients, including some of the world's largest public and private pension funds with tens of billions of dollars under management.

In his role as Chairman, Chris is responsible for establishing and executing upon Labaton Sucharow's strategic priorities, including advancing business initiatives and promoting a culture of performance, collaboration, and collegiality. Commitment to these priorities has helped the Firm deepen its practice area expertise, extend its worldwide reach and earn industry recognition for workplace culture.

Chris's distinction in the plaintiffs' bar has earned him recognition from *Lawdragon* as an "Elite Lawyer in the Legal Profession," one of the "500 Leading Lawyers in America," and one of the country's top "Plaintiff Financial Lawyers." *Chambers & Partners USA* has recognized him as a "Noted Practitioner," and he has received recommendations from *The Legal 500* for excellence in the field of securities litigation.

Described by *The Legal 500* as a "sharp and tenacious advocate" who "has his pulse on the trends," Chris has been instrumental in the Firm's appointments as lead counsel in some of the largest securities matters arising out of the financial crisis, such as actions against Countrywide (\$624 million settlement), Bear Stearns (\$275 million settlement with Bear Stearns Companies and \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor), and Goldman Sachs.

Chris is a frequent commentator on legal issues and has been featured in the *Wall Street Journal*, *Financial Times*, *Law360*, and *National Law Journal*, among others. Educating institutional investors is a significant element of Chris's advocacy efforts for shareholder rights. He is regularly called upon for presentations on developing trends in the law and new case theories at annual meetings and seminars for institutional investors.

Chris has been integral in the prosecution of traditional fraud cases such as *In re Schering-Plough Corporation/ENHANCE Securities Litigation*; *In re Massey Energy Co. Securities Litigation*, where the Firm obtained a \$265 million all-cash settlement with Alpha Natural Resources, Massey's parent company; as well as *In re Satyam Computer Services, Ltd. Securities Litigation*, where the Firm obtained a settlement of more than \$150 million. Chris was also a principal litigator on the trial team of *In re Real Estate Associates Limited Partnership Litigation*. The six-week jury trial resulted in a \$185 million plaintiffs' verdict, one of the largest jury verdicts since the passage of the Private Securities Litigation Reform Act.

Educating institutional investors is a significant element of Chris's advocacy efforts for shareholder rights. He is regularly called upon for presentations on developing trends in the law and new case theories at annual meetings and seminars for institutional investors.

Chris is a member of several professional groups, including the New York State Bar Association and the New York County Lawyers' Association. He is a prior member of the Board of Directors of the City Bar Fund, the nonprofit 501(c)(3) arm of the New York City Bar Association aimed at engaging and supporting the legal profession in advancing social justice.



Eric J. Belfi Partner

140 Broadway
New York, NY 10005
212.907.0878
ebelfi@labaton.com

Eric J. Belfi is a Partner in the New York office of Labaton Sucharow LLP and a member of the Firm's Executive Committee. An accomplished litigator with a broad range of experience in commercial matters, Eric represents many of the world's leading pension funds and other institutional investors. Eric actively focuses on domestic and international securities and shareholder litigation, as well as direct actions on behalf of governmental entities. As an integral member of the Firm's Case Development Group, Eric has brought numerous high-profile domestic securities cases that resulted from the credit crisis, including the prosecution against Goldman Sachs. Along with his domestic securities litigation practice, Eric leads the Firm's Non-U.S. Securities Litigation Practice, which is dedicated exclusively to analyzing potential claims in non-U.S. jurisdictions and advising on the risks and benefits of litigation in those forums. Overseeing the Financial Products and Services Litigation Practice, Eric focuses on bringing individual actions against malfeasant investment bankers, including cases against custodial banks that allegedly committed deceptive practices relating to certain foreign currency transactions. Additionally, Eric leads the Firm's ESG Taskforce, which provides clients with tailored advice regarding corporate responsibility and environmental, social, and governmental risks and opportunities.

Eric is recognized by *Chambers & Partners USA* and *Lawdragon* has recognized him as one of the country's "500 Leading Plaintiff Financial Lawyers" as the result of their research into top verdicts and settlements, and input from "lawyers nationwide about whom they admire and would hire to seek justice for a claim that strikes a loved one."

In his work with the Case Development Group, Eric was actively involved in securing a combined settlement of \$18.4 million in *In re Colonial BancGroup, Inc. Securities Litigation*, regarding material misstatements and omissions in SEC filings by Colonial BancGroup and certain underwriters. Eric's experience includes noteworthy M&A and derivative cases such as *In re Medco Health Solutions Inc. Shareholders Litigation* in which he was integrally involved in the negotiation of the settlement that included a significant reduction in the termination fee.

Under Eric's direction, the Firm's Non-U.S. Securities Litigation Practice—one of the first of its kind—also serves as liaison counsel to institutional investors in such cases, where appropriate. Eric represents nearly 30 institutional investors in over a dozen non-U.S. cases against companies including SNC-Lavalin Group Inc. in Canada, Vivendi Universal, S.A. in France, OZ Minerals Ltd. in Australia, Lloyds Banking Group in the U.K., and Olympus Corporation in Japan. Eric's international experience also includes securing settlements on behalf of non-U.S. clients including the U.K.-based Mineworkers' Pension Scheme in *In re Satyam Computer Securities Services Ltd. Securities Litigation*, an action related to one of the largest securities frauds in India, which resulted in \$150.5 million in collective settlements. While representing two of Europe's leading pension funds, Deka Investment GmbH and Deka International S.A., Luxembourg, in *In re General Motors Corp. Securities*

Litigation, Eric was integral in securing a \$303 million settlement in relation to multiple accounting manipulations and overstatements by General Motors.

As head of the Financial Products and Services Litigation Practice, Eric represented the Commonwealth of Virginia in its False Claims Act case against Bank of New York Mellon, Inc, among other matters.

Prior to joining Labaton Sucharow, Eric served as an Assistant Attorney General for the State of New York and as an Assistant District Attorney for the County of Westchester. As a prosecutor, Eric investigated and prosecuted white-collar criminal cases, including many securities law violations. He presented hundreds of cases to the grand jury and obtained numerous felony convictions after jury trials.

Eric is a member of the National Association of Public Pension Attorneys (NAPPA) Securities Litigation Working Group and the Cold Spring Harbor Laboratory Corporate Advisory Board. He has spoken publicly on the topics of shareholder litigation and U.S.-style class actions in European countries and has also discussed socially responsible investments for public pension funds.

Eric earned his Juris Doctor from St. John's University School of Law and received his bachelor's degree from Georgetown University.



Jake Bissell-Linsk Partner

140 Broadway
New York, NY 10005
212.907.0731
jbissell-linsk@labaton.com

Jake Bissell-Linsk is a Partner in the New York office of Labaton Sucharow LLP. Jake focuses his practice on securities fraud class actions.

Jake has litigated federal securities cases in jurisdictions across the country at both the District Court and Appellate Court level. He is currently litigating cases against Lucid Motors and Lordstown Motors involving de-SPAC mergers in the automotive industry; against Intelsat alleging insiders sold \$246 million in stock shortly after learning the FTC would reject a bet-the-company deal; against AT&T, citing 58 former AT&T employees, regarding misleading reports of the success of its video streaming service DirecTV Now; and against Cronos alleging it improperly booked revenue from round-trip transactions for cannabis processing.

In addition to these varied securities fraud cases, Jake has litigated a number of cases involving take-private mergers, including several cases involving Chinese-based and Cayman-incorporated firms that were delisted from U.S. exchanges.

Jake has played a pivotal role in securing favorable settlements for investors in a variety of securities class actions, including recent cases against Nielsen (\$73 million settlement), in a suit that involved allegations of inflated goodwill and the effect of the EU's GDPR on the company, and Mindbody (\$9.75 million settlement), in a suit alleging false guidance and inadequate disclosures prior to a private equity buyout.

Jake's pro bono experience includes assisting pro se parties through the Federal Pro Se Legal Assistance Project.

Jake was previously a Litigation Associate at Davis Polk & Wardwell LLP, where he worked on complex commercial litigation including contract disputes, bankruptcies, derivative suits, and securities claims. He also assisted defendants in government investigations and provided litigation advice on M&A transactions.

Jake earned his Juris Doctor, *magna cum laude*, from the University of Pennsylvania Law School. He served as Senior Editor of the University of Pennsylvania Law Review and Associate Editor of the East Asia Law Review. While in law school, Jake interned for Judge Melvin L. Schweitzer at the New York Supreme Court (Commercial Division). He received his bachelor's degree, *magna cum laude*, from Hamline University.



Michael P. Canty Partner

140 Broadway
New York, NY 10005
212.907.0863
mcanty@labaton.com

Michael P. Canty is a Partner in the New York office of Labaton Sucharow LLP, where he serves on the Firm's Executive Committee and as its General Counsel. In addition, he leads one of the Firm's Securities Litigation Teams and serves as head of the Firm's Consumer Cybersecurity and Data Privacy Group. Michael's practice focuses on complex fraud cases on behalf of institutional investors and consumers.

Recommended by *The Legal 500* and *Benchmark Litigation* as an accomplished litigator, Michael has more than a decade of trial experience in matters relating to national security, white collar crime, and cybercrime. Michael has been recognized as a Plaintiffs' Trailblazer and a NY Trailblazer by the *National Law Journal* and the *New York Law Journal*, respectively, for his impact on the practice and business of law. *Lawdragon* has also recognized Michael as one of the "500 Leading Plaintiff Financial Lawyers in America," as the result of their research into the country's top verdicts and settlements, and one of the country's "Leading Plaintiff Consumer Lawyers."

Michael has successfully prosecuted a number of high-profile securities matters involving technology companies. Most notably, Michael is part of the litigation team that recently achieved a historic \$650 million settlement in the *In re Facebook Biometric Information Privacy Litigation* matter—the largest consumer data privacy settlement ever and one of the first cases asserting consumers' biometric privacy rights under Illinois' Biometric Information Privacy Act (BIPA). Michael has also led cases against AMD, a multi-national semiconductor company, and Ubiquiti Networks, Inc., a global software company. In both cases, Michael played a pivotal role in securing favorable settlements for investors.

Prior to joining Labaton Sucharow, Michael served as an Assistant U.S. Attorney in the U.S. Attorney's Office for the Eastern District of New York, where he was the Deputy Chief of the Office's General Crimes Section. During his time as a federal prosecutor, Michael also served in the Office's National Security and Cybercrimes Section. Prior to this, he served as an Assistant District Attorney for the Nassau County District Attorney's Office, where he handled complex state criminal offenses and served in the Office's Homicide Unit.

Michael has extensive trial experience both from his days as a prosecutor in New York City for the U.S. Department of Justice and as a Nassau County Assistant District Attorney. Michael served as trial counsel in more than 35 matters, many of which related to violent crime, white-collar, and terrorism-related offenses. He played a pivotal role in *United States v. Abid Naseer*, where he prosecuted and convicted an al-Qaeda operative who conspired to carry out attacks in the United States and Europe. Michael also led the investigation in *United States v. Marcos Alonso Zea*, a case in which he successfully prosecuted a citizen for attempting to join a terrorist organization in the Arabian Peninsula and for providing material support for planned attacks.

Michael also has extensive experience investigating and prosecuting cases involving the distribution of prescription opioids. In January 2012, Michael was assigned to the U.S. Attorney's Office Prescription Drug Initiative to mount a comprehensive response to what the Centers for Disease Control and Prevention (CDC) has called an epidemic increase in the abuse of so-called opioid analgesics. As a member of the initiative, in *United States v. Conway* and *United States v. Deslouché*, Michael successfully prosecuted medical professionals who were illegally prescribing opioids. In *United States v. Moss et al.*, he was responsible for dismantling one of the largest oxycodone rings operating in the New York metropolitan area at the time. In addition to prosecuting these cases, Michael spoke regularly to the community on the dangers of opioid abuse as part of the Office's community outreach.

Before becoming a prosecutor, Michael worked as a Congressional Staff Member for the U.S. House of Representatives. He primarily served as a liaison between the Majority Leader's Office and the Government Reform and Oversight Committee. During his time with the House of Representatives, Michael managed congressional oversight of the United States Postal Service and reviewed and analyzed counter-narcotics legislation as it related to national security matters.

He is a member of the Federal Bar Council American Inn of Court, which endeavors to create a community of lawyers and jurists and promotes the ideals of professionalism, mentoring, ethics, and legal skills.

Michael earned his Juris Doctor, *cum laude*, from St. John's University's School of Law. He received his Bachelor of Arts, *cum laude*, from Mary Washington College.



James T. Christie Partner

140 Broadway
New York, NY 10005
212.907.0781
jchristie@labaton.com

James Christie is a Partner in the New York office of Labaton Sucharow LLP. James focuses on prosecuting complex securities fraud cases on behalf of institutional investors. He is currently involved in litigating cases against major U.S. and non-U.S. corporations, such as Alexion Pharmaceuticals, GoGo, 2U, Precision Castparts, Flex, CannTrust Holdings, iQIYI, and Weatherford International. James also serves as Assistant General Counsel of the Firm.

James has been recognized as a "Rising Star of the Plaintiffs Bar" by *The National Law Journal* Elite Trial Lawyers and *Benchmark Litigation* named him to their "40 & Under List."

James was an integral part of the Firm team that helped recover \$192.5 million for investors in a settlement for *In re SCANA Corporation Securities Litigation*. James also assisted in recovering \$20 million on behalf of investors in a securities class action against LifeLock Inc., where he played a significant role in obtaining a key appellate victory in the Ninth Circuit Court of Appeals reversing the district court's order dismissing the case with prejudice. In addition, James assisted in the \$14.75 million recovery secured for investors against PTC Therapeutics Inc., a pharmaceutical manufacturer of orphan drugs, in *In re PTC Therapeutics, Inc. Securities Litigation*. He was also part of the team that represented the lead plaintiff, the Public Employees' Retirement System of Mississippi, in *Public Employees' Retirement System of Mississippi v. Sprouts Farmers Market Inc.*, which resulted in a \$9.5 million settlement against Sprouts Farmers Market and several of its senior officers and directors.

James previously served as a Judicial Intern in the U.S. District Court for the Eastern District of New York under the Honorable Sandra J. Feuerstein.

He is a member of the American Bar Association and the Federal Bar Council.

James earned his Juris Doctor from St. John's University School of Law, where he was the Senior Articles Editor of the St. John's Law Review, and his Bachelor of Science, *cum laude*, from St. John's University Tobin College of Business.



Thomas A. Dubbs Partner

140 Broadway
New York, NY 10005
212.907.0871
tdubbs@labaton.com

Thomas A. Dubbs is a Partner in the New York office of Labaton Sucharow LLP. Tom focuses on the representation of institutional investors in domestic and multinational securities cases. Tom serves or has served as lead or co-lead counsel in some of the most important federal securities class actions in recent years, including those against American International Group, Goldman Sachs, the Bear Stearns Companies, Facebook, Fannie Mae, Broadcom, and WellCare.

Tom is highly-regarded in his practice. He has been named a top litigator by *Chambers & Partners USA* for more than 10 consecutive years and has been consistently ranked as a Leading Lawyer in Securities Litigation by *The Legal 500*. *Law360* named him an MVP of the Year for distinction in class action litigation and he has been recognized by *The National Law Journal* and *Benchmark Litigation* for excellence in securities litigation. *Lawdragon* has recognized Tom as one of the country's "500 Leading Plaintiff Financial Lawyers" and named him to their Hall of Fame. Tom has also received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory. In addition, *The Legal 500* has inducted Tom into its Hall of Fame—an honor presented to only four plaintiffs' securities litigators "who have received constant praise by their clients for continued excellence."

Tom has played an integral role in securing significant settlements in several high-profile cases, including *In re American International Group, Inc. Securities Litigation* (settlements totaling more than \$1 billion); *In re Bear Stearns Companies, Inc. Securities Litigation* (\$275 million settlement with Bear Stearns Companies plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (over \$200 million settlement); *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Broadcom Corp. Securities Litigation* (\$160.5 million settlement with Broadcom, plus \$13 million settlement with Ernst & Young LLP, Broadcom's outside auditor); *In re St. Paul Travelers Securities Litigation* (\$144.5 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); and *In re Vesta Insurance Group, Inc. Securities Litigation* (\$78 million settlement).

Representing an affiliate of the Amalgamated Bank, Tom successfully led a team that litigated a class action against Bristol-Myers Squibb, which resulted in a settlement of \$185 million as well as major corporate governance reforms. He has argued before the U.S. Supreme Court and has argued 10 appeals dealing with securities or commodities issues before the U.S. Courts of Appeals.

Due to his reputation in securities law, Tom frequently lectures to institutional investors and other groups, such as the Government Finance Officers Association, the National Conference on Public Employee Retirement Systems, and the Council of Institutional Investors. He is a prolific author of articles related to his field, including "Textualism and Transnational Securities Law: A Reappraisal of

Justice Scalia's Analysis in *Morrison v. National Australia Bank*," which he penned for the *Southwestern Journal of International Law*. He has also written several columns in U.K. publications regarding securities class actions and corporate governance.

Prior to joining Labaton Sucharow, Tom was Senior Vice President & Senior Litigation Counsel for Kidder, Peabody & Co. Incorporated, where he represented the company in many class actions, including the *First Executive* and *Orange County* litigation and was first chair in many securities trials. Before joining Kidder, Tom was head of the litigation department at Hall, McNicol, Hamilton & Clark, where he was the principal partner representing Thomson McKinnon Securities Inc. in many matters, including the *Petro Lewis* and *Baldwin-United* class actions.

Tom serves as a FINRA Arbitrator and is an Advisory Board Member for the Institute for Transnational Arbitration. He is a member of the New York State Bar Association and the Association of the Bar of the City of New York, as well as a patron of the American Society of International Law. Tom is an active member of the American Law Institute and is currently an adviser on the proposed Restatement of the Law Third, Conflict of Laws; he was also a member of the Consultative Groups for the Restatement of the Law Fourth, U.S. Foreign Relations Law, and the Principles of Law, Aggregate Litigation. Tom also serves on the Board of Directors for The Sidney Hillman Foundation.

Tom earned his Juris Doctor and his bachelor's degree from the University of Wisconsin-Madison. He received his master's degree from the Fletcher School of Law and Diplomacy, Tufts University.



Alfred L. Fatale III Partner

140 Broadway
New York, NY 10005
212.907.0884
afatale@labaton.com

Alfred L. Fatale III is a Partner in the New York office of Labaton Sucharow LLP and currently leads a team of attorneys focused on litigating securities claims arising from initial public offerings, secondary offerings, and stock-for-stock mergers.

Alfred's success in moving the needle in the legal industry has earned him recognition from *Chambers & Partners USA*, the *National Law Journal* as a "Plaintiffs' Lawyer Trailblazer," and *The American Lawyer* as a "Northeast Trailblazer." *Lawdragon* has recognized him as one of the country's "500 Leading Plaintiff Financial Lawyers" and *Benchmark Litigation* also named him to their "40 & Under List."

Alfred represents individual and institutional investors in cases related to the protection of the financial markets and public securities offerings in trial and appellate courts throughout the country. In particular, he is leading the Firm's efforts to litigate securities claims against several companies in state courts following the U.S. Supreme Court's decision in *Cyan, Inc. v. Beaver County Employees Retirement Fund*.

Alfred is also overseeing the firm's efforts in litigating several cases in federal courts. This includes a securities class action against Uber Technologies Inc. arising from the company's \$8 billion IPO.

Since joining the Firm in 2016, Alfred has lead the investigation and prosecution of several successful cases, including *In re ADT Inc. Securities Litigation*, resulting in a \$30 million recovery; *In re CPI Card Group Inc. Securities Litigation*, resulting in a \$11 million recovery; *In re BrightView Holdings, Inc. Securities Litigation*, resulting in a \$11.5 million recovery; *Plymouth County Retirement Association v. Spectrum Brands Holdings Inc.*, resulting in a \$9 million recovery, *In re SciPlay Corp. Securities Litigation*, resulting in an \$8.275 million recovery; and *In re Livent Corp. Securities Litigation*, resulting in a \$7.4 million recovery.

Prior to joining Labaton Sucharow, Alfred was an Associate at Fried, Frank, Harris, Shriver & Jacobson LLP, where he advised and represented financial institutions, investors, officers, and directors in a broad range of complex disputes and litigations including cases involving violations of federal securities law and business torts.

Alfred is an active member of the American Bar Association and the New York City Bar Association.

Alfred earned his Juris Doctor from Cornell Law School, where he was a member of the *Cornell Law Review* as well as the Moot Court Board. He also served as a Judicial Extern under the Honorable Robert C. Mulvey. He received his bachelor's degree, *summa cum laude*, from Montclair State University.



Christine M. Fox Partner

140 Broadway
New York, NY 10005
212.907.0784
cfox@labaton.com

Christine M. Fox is a Partner in the New York office of Labaton Sucharow LLP. With more than 20 years of securities litigation experience, Christine prosecutes complex securities fraud cases on behalf of institutional investors. In addition to her litigation responsibilities, Christine serves as the Chair of the Firm's DEI Committee.

Christine is recognized by *Lawdragon* as one of the "500 Leading Plaintiff Financial Lawyers in America."

Christine is actively involved in litigating matters against FirstCash Holdings, Hain Celestial, Oak Street Health, Peabody Energy, Super Micro Computer, and Uniti Group. She has played a pivotal role in securing favorable settlements for investors in class actions against Barrick Gold Corporation, one of the largest gold mining companies in the world (\$140 million recovery); Nielsen, a data analytics company that provides clients with information about consumer preferences (\$73 million recovery); CVS Caremark, the nation's largest pharmacy retail chain (\$48 million recovery); Nu Skin Enterprises, a multilevel marketing company (\$47 million recovery); and Intuitive Surgical, a manufacturer of robotic-assisted technologies for surgery (\$42.5 million recovery); and World Wrestling Entertainment, a media and entertainment company (\$39 million recovery).

Christine is actively involved in the Firm's pro bono immigration program and reunited a father and child separated at the border. She is currently working on their asylum application.

Prior to joining the Firm, Christine worked at a national litigation firm focusing on securities, antitrust, and consumer litigation in state and federal courts. She played a significant role in securing class action recoveries in a number of high-profile securities cases, including *In re Merrill Lynch Co., Inc. Research Reports Securities Litigation* (\$475 million recovery); *In re Informix Corp. Securities Litigation* (\$136.5 million recovery); *In re Alcatel Alsthom Securities Litigation* (\$75 million recovery); and *In re Ambac Financial Group, Inc. Securities Litigation* (\$33 million recovery).

She is a member of the American Bar Association, New York State Bar Association, and Puerto Rican Bar Association.

Christine earned her Juris Doctor from the University of Michigan Law School and received her bachelor's degree from Cornell University.

Christine is conversant in Spanish.



Jonathan Gardner Partner

140 Broadway
New York, NY 10005
212.907.0839
jgardner@labaton.com

Jonathan Gardner is a Partner in the New York office of Labaton Sucharow LLP, a member of the Firm's Executive Committee, and serves as Head of Litigation for the Firm. With more than 30 years of experience, Jonathan oversees all of the Firm's litigation matters, including prosecuting complex securities fraud cases on behalf of institutional investors.

A *Benchmark Litigation* "Star" acknowledged by his peers as "engaged and strategic," Jonathan has also been named an MVP by *Law360* for securing hard-earned successes in high-stakes litigation and complex global matters. He is ranked by *Chambers & Partners USA* describing him as "an outstanding lawyer who knows how to get results" and recommended by *The Legal 500*, whose sources remarked on Jonathan's ability to "understand the unique nature of complex securities litigation and strive for practical yet results-driven outcomes" and his "considerable expertise and litigation skill and practical experience that helps achieve terrific results for clients." Jonathan is also recognized by *Lawdragon* as one of the "500 Leading Lawyers in America" and one of the country's top "Plaintiff Financial Lawyers."

Jonathan has played an integral role in securing some of the largest class action recoveries against corporate offenders since the global financial crisis. He led the Firm's team in the investigation and prosecution of *In re Barrick Gold Securities Litigation*, which resulted in a \$140 million recovery. He has also served as the lead attorney in several cases resulting in significant recoveries for injured class members, including *In re Hewlett-Packard Company Securities Litigation* (\$57 million recovery); *Public Employees' Retirement System of Mississippi v. Endo International PLC* (\$50 million recovery); *Medoff v. CVS Caremark Corporation* (\$48 million recovery); *In re Nu Skin Enterprises, Inc., Securities Litigation*, (\$47 million recovery); *In re Intuitive Surgical Securities Litigation* (\$42.5 million recovery); *In re Carter's Inc. Securities Litigation* (\$23.3 million recovery against Carter's and certain officers, as well as its auditing firm PricewaterhouseCoopers); *In re Aeropostale Inc. Securities Litigation* (\$15 million recovery); *In re Lender Processing Services Inc.* (\$13.1 million recovery); and *In re K-12, Inc. Securities Litigation* (\$6.75 million recovery).

Jonathan has led the Firm's representation of investors in many high-profile cases including *Rubin v. MF Global Ltd.*, which involved allegations of material misstatements and omissions in a Registration Statement and Prospectus issued in connection with MF Global's IPO. The case resulted in a recovery of \$90 million for investors. Jonathan also represented lead plaintiff City of Edinburgh Council as Administering Authority of the Lothian Pension Fund in *In re Lehman Brothers Equity/Debt Securities Litigation*, which resulted in settlements exceeding \$600 million against Lehman Brothers' former officers and directors, Lehman's former public accounting firm, as well the banks that underwrote Lehman Brothers' offerings. In representing lead plaintiff Massachusetts Bricklayers and Masons Trust Funds in an action against Deutsche Bank, Jonathan secured a \$32.5

million recovery for a class of investors injured by the bank's conduct in connection with certain residential mortgage-backed securities.

Jonathan has also been responsible for prosecuting several of the Firm's options backdating cases, including *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement); *In re SafeNet, Inc. Securities Litigation* (\$25 million settlement); *In re Semtech Securities Litigation* (\$20 million settlement); and *In re MRV Communications, Inc. Securities Litigation* (\$10 million settlement). He also was instrumental in *In re Mercury Interactive Corp. Securities Litigation*, which settled for \$117.5 million, one of the largest settlements or judgments in a securities fraud litigation based on options backdating. Jonathan also represented the Successor Liquidating Trustee of Lipper Convertibles, a convertible bond hedge fund, in actions against the fund's former independent auditor and a member of the fund's general partner as well as numerous former limited partners who received excess distributions. He successfully recovered over \$5.2 million for the Successor Liquidating Trustee from the limited partners and \$29.9 million from the former auditor.

Jonathan is a member of the Federal Bar Council, New York State Bar Association, and the Association of the Bar of the City of New York.

Jonathan earned his Juris Doctor from St. John's University School of Law. He received his bachelor's degree from American University.



Thomas G. Hoffman, Jr. Partner

140 Broadway

New York, NY 10005

212.907.0744

thoffman@labaton.com

Thomas G. Hoffman, Jr. is a partner in the New York office of Labaton Sucharow LLP. Thomas focuses on representing institutional investors in complex securities actions. He is currently prosecuting cases against BP and Allstate.

Thomas was instrumental in securing a \$1 billion recovery in the eight-year litigation against AIG and related defendants. He also was a key member of the Labaton Sucharow team that recovered \$170 million for investors in *In re 2008 Fannie Mae Securities Litigation*.

Thomas earned his Juris Doctor from UCLA School of Law, where he was Editor-in-Chief of the *UCLA Entertainment Law Review* and served as a Moot Court Executive Board Member. In addition, he served as a judicial extern to the Honorable William J. Rea, United States District Court for the Central District of California. Thomas received his bachelor's degree, with honors, from New York University.



James W. Johnson Partner

140 Broadway

New York, NY 10005

212.907.0859

jjohnson@labaton.com

James W. Johnson is a Partner in the New York office of Labaton Sucharow LLP. Jim focuses on litigating complex securities fraud cases. In addition to his active caseload, Jim holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee. He also serves as the Executive Partner overseeing firm-wide issues.

Jim is "well respected in the field," earning him recognition from *Chambers & Partners USA*, *The Legal 500*, *Benchmark Litigation*, and *Lawdragon*, who named him as one of the "500 Leading Lawyers in America" and one of the country's top "Plaintiff Financial Lawyers." He has also received a rating of AV Preeminent from the publishers of the *Martindale-Hubbell* directory.

In representing investors who have been victimized by securities fraud and breaches of fiduciary responsibility, Jim's advocacy has resulted in record recoveries for wronged investors. Currently, he is prosecuting the high-profile case against financial industry leader Goldman Sachs—*In re Goldman Sachs Group, Inc. Securities Litigation*.

A recognized leader in his field, Jim has successfully litigated a number of complex securities and RICO class actions. These include *In re HealthSouth Corp. Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (\$200 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); *In re Vesta Insurance Group, Inc. Securities Litigation* (\$79 million settlement); and *In re SCANA Securities Litigation* (\$192.5 million settlement). Other notable successes include *In re National Health Laboratories, Inc. Securities Litigation*, which resulted in a recovery of \$80 million in the federal action and a related state court derivative action, and *In re Bristol Myers Squibb Co. Securities Litigation*, in which the court approved a \$185 million settlement including significant corporate governance reforms and recognized plaintiff's counsel as "extremely skilled and efficient."

Jim also represented lead plaintiffs in *In re Bear Stearns Companies, Inc. Securities Litigation*, securing a \$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor. In *County of Suffolk v. Long Island Lighting Co.*, Jim represented the plaintiff in a RICO class action, securing a jury verdict after a two-month trial that resulted in a \$400 million settlement. The Second Circuit quoted the trial judge, the Honorable Jack B. Weinstein, as stating, "Counsel [has] done a superb job [and] tried this case as well as I have ever seen any case tried." On behalf of the Chugach Native Americans, he also assisted in prosecuting environmental damage claims resulting from the Exxon Valdez oil spill.

Jim is a Member of the American Bar Association and the Association of the Bar of the City of New York, where he served on the Federal Courts Committee. He is also a Fellow in the Litigation Council of America and a Member of the Advisory Board of the Institute for Law and Economic Policy.



Jim earned his Juris Doctor from New York University School of Law and his bachelor's degree from Fairfield University.



Francis P. McConville Partner

140 Broadway
New York, NY 10005
212.907.0650
fmconville@labaton.com

Francis P. McConville is a Partner in the New York office of Labaton Sucharow LLP. Francis focuses on prosecuting complex securities fraud cases on behalf of institutional investor clients. As a lead member of the Firm’s Case Development Group, he focuses on the identification, investigation, and development of potential actions to recover investment losses resulting from violations of the federal securities laws and various actions to vindicate shareholder rights in response to corporate and fiduciary misconduct.

Francis has been named a “Rising Star” of securities litigation in *Law360*’s list of attorneys under 40 whose legal accomplishments transcend their age. *Lawdragon* has recognized him as one of the country’s “500 Leading Plaintiff Financial Lawyers” and *Benchmark Litigation* also named him to their “40 & Under List.”

Francis has played a key role in filing several matters on behalf of the Firm, including *In re PG&E Corporation Securities Litigation*; *In re SCANA Securities Litigation* (\$192.5 million settlement); *Steamfitters Local 449 Pension Plan v. Skechers U.S.A., Inc.*; and *In re Nielsen Holdings PLC Securities Litigation*.

Prior to joining Labaton Sucharow, Francis was a Litigation Associate at a national law firm primarily focused on securities and consumer class action litigation. Francis has represented institutional and individual clients in federal and state court across the country in class action securities litigation and shareholder disputes, along with a variety of commercial litigation matters. He assisted in the prosecution of several matters, including *Kiken v. Lumber Liquidators Holdings, Inc.* (\$42 million recovery); *Hayes v. MagnaChip Semiconductor Corp.* (\$23.5 million recovery); and *In re Galena Biopharma, Inc. Securities Litigation* (\$20 million recovery).

Francis currently serves on *Law360*’s Securities Editorial Advisory Board.

Francis received his Juris Doctor, *magna cum laude*, from New York Law School, where he was named a John Marshall Harlan Scholar, and received a Public Service Certificate. Francis served as Associate Managing Editor of the *New York Law School Law Review* and worked in the Urban Law Clinic. He earned his Bachelor of Arts degree from the University of Notre Dame.



Domenico Minerva Partner

140 Broadway
New York, NY 10005
212.907.0887
dminerva@labaton.com

Domenico “Nico” Minerva is a Partner in the New York office of Labaton Sucharow LLP. A former financial advisor, his work focuses on securities, antitrust, and consumer class actions and shareholder derivative litigation, representing Taft-Hartley and public pension funds across the country. Nico advises leading pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets.

Nico is described by clients as “always there for us” and known to provide “an honest answer and describe all the parameters and/or pitfalls of each and every case.” As a result of his work, the Firm has received a Tier 2 ranking in Antitrust Civil Litigation and Class Actions from *Legal 500*. *Lawdragon* has recognized Nico as one of the country’s “500 Leading Plaintiff Financial Lawyers.”

Nico’s extensive securities litigation experience includes the case against global security systems company Tyco and co-defendant PricewaterhouseCoopers (*In re Tyco International Ltd., Securities Litigation*), which resulted in a \$3.2 billion settlement—the largest single-defendant settlement in post-PSLRA history. He also has counseled companies and institutional investors on corporate governance reform.

Nico has also done substantial work in antitrust class actions. These include pay-for-delay or “product hopping” cases in which pharmaceutical companies allegedly obstructed generic competitors in order to preserve monopoly profits on patented drugs, such as *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Limited Co.*, *In re Lidoderm Antitrust Litigation*, *In re Solodyn (MinocyclineHydrochloride) Antitrust Litigation*, *In re Niaspan Antitrust Litigation*, *In re Aggrenox Antitrust Litigation*, and *Sergeants Benevolent Association Health & Welfare Fund et al. v. Actavis PLC et al.* In the anticompetitive matter *The Infirmary LLC vs. National Football League Inc et al.*, Nico played an instrumental part in challenging an exclusivity agreement between the NFL and DirectTV over the service’s “NFL Sunday Ticket” package. He also litigated on behalf of indirect purchasers in a case alleging that growers conspired to control and suppress the nation’s potato supply, *In re Fresh and Process Potatoes Antitrust Litigation*.

On behalf of consumers, Nico represented a plaintiff in *In Re ConAgra Foods Inc.*, over misleading claims that Wesson-brand vegetable oils are 100% natural.

An accomplished speaker, Nico has given numerous presentations to investors on topics related to corporate fraud, wrongdoing, and waste. He is also an active member of the National Association of Public Pension Plan Attorneys.

Nico earned his Juris Doctor from Tulane University Law School, where he completed a two-year externship with the Honorable Kurt D. Engelhardt of the United States District Court for the Eastern District of Louisiana. He received his bachelor's degree from the University of Florida.



Mark D. Richardson Partner

222 Delaware Ave, Suite 1510

Wilmington, DE 19801

302.573.6939

mrichardson@labaton.com

Mark D. Richardson is a Partner in the Delaware office of Labaton Sucharow LLP. Mark focuses on representing shareholders in corporate governance and transactional matters, including class action and derivative litigation.

Mark is recommended by *The Legal 500* for the excellence of his work in the Delaware Court of Chancery. Clients highlighted his team's ability to “generate strong cases and take creative and innovative positions.” *Lawdragon* has recognized him as one of the country's “500 Leading Plaintiff Financial Lawyers” and *Benchmark Litigation* also named him to their “40 & Under List.”

Mark is actively prosecuting, among other matters, *In re Dell Technologies Inc. Class V Stockholders Litigation*; *In re Coty Inc. Stockholder Litigation*; *In re Columbia Pipeline Group, Inc. Merger Litigation*; and *In re Straight Path Communications Inc. Consol. Stockholder Litigation*. Mark has served as lead or co-lead counsel in prominent cases against Amtrust Financial Services (\$40 million settlement), AGNC (\$35.5 million settlement), Stamps.com (\$30 million settlement), Homefed (\$15 million settlement with Court approval pending), and CytoDyn (rescission of over \$50 million in director and officer stock awards).

Prior to joining Labaton Sucharow, Mark was an Associate at Schulte Roth & Zabel LLP, where he gained substantial experience in complex commercial litigation within the financial services industry and advised and represented clients in class action litigation, expedited bankruptcy proceedings and arbitrations, fraudulent transfer actions, proxy fights, internal investigations, employment disputes, breaches of contract, enforcement of non-competes, data theft, and misappropriation of trade secrets.

In addition to his active caseload, Mark has contributed to numerous publications and is the recipient of *The Burton Awards* Distinguished Legal Writing Award for his article published in the *New York Law Journal*, “Options When a Competitor Raids the Company.” Mark also serves on Law360's Delaware Editorial Advisory Board.

Mark earned his Juris Doctor from Emory University School of Law, where he served as the President of the Student Bar Association. He received his Bachelor of Science from Cornell University.

Brendan W. Sullivan Partner

222 Delaware Ave, Suite 1510

Wilmington, DE 19801

302.573.5820

bsullivan@labaton.com

Brendan W. Sullivan is a Partner in the Delaware office of Labaton Sucharow LLP. He focuses on representing investors in corporate governance and transactional matters, including class action litigation.

Prior to joining Labaton Sucharow, Brendan was an Associate at Paul, Weiss, Rifkind, Wharton & Garrison LLP where he gained substantial experience in class and derivative matters relating to mergers and acquisitions and corporate governance. During law school, he was a Summer Associate at Morris, Nichols and a Law Clerk for Honorable Judge Leonard P. Stark, U.S. District Court for the District of Delaware.

Brendan's pro bono experience includes representing a Delaware charter school in a mediation concerning a malpractice claim against its former auditor.

Brendan earned his Juris Doctor from Georgetown University Law Center where he was the Notes Editor on the *Georgetown Law Journal* and his Bachelor of Arts in English from the University of Delaware.



Michael H. Rogers Partner

140 Broadway

New York, NY 10005

212.907.0814

mrogers@labaton.com

Michael H. Rogers is a Partner in the New York office of Labaton Sucharow LLP. An experienced litigator, Mike focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

He is actively involved in prosecuting *In re Goldman Sachs, Inc. Securities Litigation*; *Murphy v. Precision Castparts Corp.*; *In re Acuity Brands, Inc. Securities Litigation*; *In re CannTrust, Inc. Securities Litigation*; and *In re Jen-Weld Holding, Inc. Securities Litigation*.

Mike has been a member of the lead counsel teams in many successful class actions, including those against Countrywide Financial Corp. (\$624 million settlement), HealthSouth Corp. (\$671 million settlement), State Street (\$300 million settlement), SCANA Corp (\$192.5 million settlement), Mercury Interactive Corp. (\$117.5 million settlement), Computer Sciences Corp. (\$97.5 million settlement), and Virtus Investment Partners (\$20 million settlement).

Prior to joining Labaton Sucharow, Mike was an attorney at Kasowitz, Benson, Torres & Friedman LLP, where he practiced securities and antitrust litigation, representing international banking institutions bringing federal securities and other claims against major banks, auditing firms, ratings agencies and individuals in complex multidistrict litigation. He also represented an international chemical shipping firm in arbitration of antitrust and other claims against conspirator ship owners. Mike began his career as an attorney at Sullivan & Cromwell, where he was part of Microsoft's defense team in the remedies phase of the Department of Justice antitrust action against the company.

Mike earned his Juris Doctor, *magna cum laude*, from the Benjamin N. Cardozo School of Law, Yeshiva University, where he was a member of the *Cardozo Law Review*. He earned his bachelor's degree, *magna cum laude*, from Columbia University.

Mike is proficient in Spanish.



Ira A. Schochet Partner

140 Broadway
New York, NY 10005
212.907.0864
ischochet@labaton.com

Ira A. Schochet is a Partner in the New York office of Labaton Sucharow LLP. A seasoned litigator with three decades of experience, Ira focuses on class actions involving securities fraud. Ira has played a lead role in securing multimillion dollar recoveries in high-profile cases such as those against Countrywide Financial Corporation (\$624 million), Weatherford International Ltd (\$120 million), Massey Energy Company (\$265 million), Caterpillar Inc. (\$23 million), Autoliv Inc. (\$22.5 million), and Fifth Street Financial Corp. (\$14 million).

A highly regarded industry veteran, Ira has been recommended in securities litigation by *The Legal 500*, named a “Leading Plaintiff Financial Lawyer” by *Lawdragon* and been awarded an AV Preeminent rating, the highest distinction, from Martindale-Hubbell.

Ira is a longtime leader in the securities class action bar and represented one of the first institutional investors acting as a lead plaintiff in a post-Private Securities Litigation Reform Act case and ultimately obtained one of the first rulings interpreting the statute’s intent provision in a manner favorable to investors in *STI Classic Funds, et al. v. Bollinger Industries, Inc.* His efforts are regularly recognized by the courts, including in *Kamarasy v. Coopers & Lybrand*, where the court remarked on “the superior quality of the representation provided to the class.” In approving the settlement he achieved in *In re InterMune Securities Litigation*, the court complimented Ira’s ability to secure a significant recovery for the class in a very efficient manner, shielding the class from prolonged litigation and substantial risk.

Ira has also played a key role in groundbreaking cases in the field of merger and derivative litigation. In *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, he achieved the second largest derivative settlement in the Delaware Court of Chancery history, a \$153.75 million settlement with an unprecedented provision of direct payments to stockholders by means of a special dividend. In another first-of-its-kind case, Ira was featured in *The AmLaw Litigation Daily* as Litigator of the Week for his work in *In re El Paso Corporation Shareholder Litigation*. The action alleged breach of fiduciary duties in connection with a merger transaction, including specific reference to wrongdoing by a conflicted financial advisory consultant, and resulted in a \$110 million recovery for a class of shareholders and a waiver by the consultant of its fee.

From 2009-2011, Ira served as President of the National Association of Shareholder and Consumer Attorneys (NASCAT), a membership organization of approximately 100 law firms that practice class action and complex civil litigation. During this time, he represented the plaintiffs’ securities bar in meetings with members of Congress, the Administration, and the SEC.

From 1996 through 2012, Ira served as Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association. During his tenure, he served

on the Executive Committee of the Section and authored important papers on issues relating to class action procedure including revisions proposed by both houses of Congress and the Advisory Committee on Civil Procedure of the United States Judicial Conference. Examples include “Proposed Changes in Federal Class Action Procedure,” “Opting Out on Opting In,” and “The Interstate Class Action Jurisdiction Act of 1999.” Ira has also lectured extensively on securities litigation at seminars throughout the country.

Ira earned his Juris Doctor from Duke University School of Law and his bachelor’s degree, *summa cum laude*, from the State University of New York at Binghamton.



David J. Schwartz Partner

140 Broadway
New York, NY 10005
212.907.0870
dschwartz@labaton.com

David J. Schwartz is a Partner in the New York office of Labaton Sucharow LLP, focusing on event-driven and special situation litigation using legal strategies to enhance clients' investment returns.

David has been named a "Future Star" by *Benchmark Litigation* and was also selected, three years in a row, to their "40 & Under Hot List," which recognized him as one of the nation's most accomplished attorneys. *Lawdragon* has recognized him as one of the country's "500 Leading Plaintiff Financial Lawyers" and he has also been featured in *Lawdragon's* Lawyer Limelight series.

Over the last several years, David has helped secure leadership roles on behalf of his clients in some of the largest pending securities class action and SPAC litigations, including cases against Lordstown, Nikola, Alta Mesa, Paypal, and others.

David's extensive experience includes prosecuting, as well as defending against, securities and corporate governance actions for an array of domestic and international clients, including retail investors, hedge funds, merger arbitrageurs, pension funds, mutual funds, and asset management companies. He has played a pivotal role in some of the largest securities class action cases in recent years—including a milestone CA\$129.5 million settlement in *In re CannTrust, Inc. Securities Litigation* and a \$55 million settlement in *In re Resideo Securities Litigation* (one of the three largest in the Eighth Circuit). David has also done substantial work in mergers and acquisitions appraisal litigation and direct action/opt-out litigation.

Among other cases, David is currently prosecuting *In re Silver Lake Group, L.L.C. Securities Litigation*; *In re Mindbody, Inc. Securities Litigation*; and several international appraisal actions.

David earned his Juris Doctor from Fordham University School of Law, where he served on the *Urban Law Journal*. He received his bachelor's degree in economics, graduating with honors, from The University of Chicago.



Irina Vasilchenko Partner

140 Broadway
New York, NY 10005
212.907.0849
ivasilchenko@labaton.com

Irina Vasilchenko is a Partner in the New York office of Labaton Sucharow LLP and head of the Firm's Associate Training Program. Irina focuses on prosecuting complex securities fraud cases on behalf of institutional investors and has over a decade of experience in such litigation.

Irina is recognized as an up-and-coming litigator whose legal accomplishments transcend her age. She has been named repeatedly to *Benchmark Litigation's* "40 & Under List" and also has been recognized as a "Future Star" by *Benchmark Litigation* and a "Rising Star" by *Law360*, one of only six securities attorneys in its 2020 list. Additionally, *Lawdragon* has named her one of the "500 Leading Plaintiff Financial Lawyers in America."

Currently, Irina is involved in prosecuting the high-profile case against financial industry leader Goldman Sachs, *In re Goldman Sachs Group, Inc. Securities Litigation*, arising from its Abacus and other subprime mortgage-backed CDOs during the Financial Crisis, including defending against an appeal of the class certification order to the U.S. Supreme Court and to the Second Circuit. She is also actively prosecuting *In re Acuity Brands, Inc. Securities Litigation*; *Meitav Dash Provident Funds and Pension Ltd. v. Spirit AeroSystems Holdings, Inc.*; and *Perrelouis v. Gogo Inc.*

Recently, Irina played a pivotal role in securing a historic \$192.5 million settlement for investors in energy company SCANA Corp. over a failed nuclear reactor project in South Carolina, as well as a \$19 million settlement in a shareholders' suit against Daimler AG over its Mercedes Benz diesel emissions scandal. Since joining Labaton Sucharow, she also has been a key member of the Firm's teams that have obtained favorable settlements for investors in numerous securities cases, including *In re Massey Energy Co. Securities Litigation* (\$265 million settlement); *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); *In re Hewlett-Packard Company Securities Litigation* (\$57 million settlement); and *In re Extreme Networks, Inc. Securities Litigation* (\$7 million settlement).

Irina maintains a commitment to pro bono legal service, including representing an indigent defendant in a criminal appeal case before the New York First Appellate Division, in association with the Office of the Appellate Defender. As part of this representation, she argued the appeal before the First Department panel. Prior to joining Labaton Sucharow, Irina was an Associate in the general litigation practice group at Ropes & Gray LLP, where she focused on securities litigation.

She is a member of the New York State Bar Association and New York City Bar Association.

Irina received her Juris Doctor, *magna cum laude*, from Boston University School of Law, where she was an editor of the *Boston University Law Review* and was the G. Joseph Tauro Distinguished Scholar, the Paul L. Liacos Distinguished Scholar, and the Edward F. Hennessey Scholar. Irina



earned a Bachelor of Arts in Comparative Literature, *summa cum laude* and Phi Beta Kappa, from Yale University.

Irina is fluent in Russian and proficient in Spanish.



Carol C. Villegas Partner

140 Broadway
New York, NY 10005
212.907.0824
cvillegas@labaton.com

Carol C. Villegas is a Partner in the New York office of Labaton Sucharow LLP. Carol focuses on prosecuting complex securities fraud and consumer cases on behalf of institutional investors and individuals. Leading one of the Firm's litigation teams, she is actively overseeing litigation against Lordstown, Playtika, Oak Street Health, Churchill Capital Corp/Lucid Motors, Danske Bank, Flo Health, Amazon, and Hain. In addition to her litigation responsibilities, Carol holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee, as Chair of the Firm's Women's Networking and Mentoring Initiative, and as the Chief of Compliance.

Carol's development of innovative case theories in complex cases, her skillful handling of discovery work, and her adept ability during oral arguments has earned her accolades from *Chambers & Partners USA*, *The National Law Journal* as a Plaintiffs' Trailblazer, and the *New York Law Journal* as a Top Woman in Law and a New York Trailblazer. *The National Law Journal* "Elite Trial Lawyers" has repeatedly recognized Carol's superb ability to excel in high-stakes matters on behalf of plaintiffs and selected her to its class of Elite Women of the Plaintiffs Bar. She has also been recognized as a Future Star by *Benchmark Litigation* and a Next Generation Partner by *The Legal 500*, where clients praised her for helping them "better understand the process and how to value a case." *Lawdragon* has named her one of the 500 Leading Lawyers in America, one of the country's top Plaintiff Financial Lawyers, and Leading Plaintiff Consumer Lawyers and Crain's New York Business selected Carol to its list of Notable Women in Law. *Euromoney's* Women in Business Law Awards has also shortlisted Carol as Securities Litigator of the Year and *Chambers and Partners* named Carol a finalist for Diversity & Inclusion: Outstanding Contribution. She has also been named a Distinguished Leader honoree by the *New York Law Journal*.

Notable recent successes include *In re Nielsen Holdings PLC Securities Litigation* (\$73 million settlement) and *City of Warren Police and Fire Retirement System v. World Wrestling Entertainment, Inc.* (\$39 million settlement). Carol has also played a pivotal role in securing favorable settlements for investors, including in cases against DeVry, a for-profit university; AMD, a multi-national semiconductor company; Liquidity Services, an online auction marketplace; Aeropostale, a leader in the international retail apparel industry; Vocera, a healthcare communications provider; and Prothena, a biopharmaceutical company, among others. Carol has also helped revive a securities class action against LifeLock after arguing an appeal before the Ninth Circuit. The case settled shortly thereafter.

Prior to joining Labaton Sucharow, Carol served as the Assistant District Attorney in the Supreme Court Bureau for the Richmond County District Attorney's office, where she took several cases to trial. She began her career as an Associate at King & Spalding LLP, where she worked as a federal litigator.

Carol is an active member of the New York State Bar Association's Women in the Law Section and Chair of the Board of Directors of the City Bar Fund, the nonprofit 501(c)(3) arm of the New York City Bar Association. She is also a member of the National Association of Public Pension Attorneys, the National Association of Women Lawyers, and the Hispanic National Bar Association. In addition, Carol previously served on *Law360*'s Securities Editorial Board.

Carol earned her Juris Doctor from New York University School of Law, where she was the recipient of The Irving H. Jurow Achievement Award for the Study of Law and received the Association of the Bar of the City of New York Diversity Fellowship. She received her bachelor's degree, with honors, from New York University.

She is fluent in Spanish.



Ned Weinberger Partner

222 Delaware Ave, Suite 1510

Wilmington, DE 19801

302.573.6938

nweinberger@labaton.com

Ned Weinberger is a Partner in the Delaware office of Labaton Sucharow LLP and is Chair of the Firm's Corporate Governance and Shareholder Rights Litigation Practice. An experienced advocate of shareholder rights, Ned focuses on representing investors in corporate governance and transactional matters, including class action and derivative litigation.

Highly regarded in his practice, Ned has been recognized by *Chambers & Partners USA* in the Delaware Court of Chancery noting he is "a very good case strategist and strong oral advocate" and was named "Up and Coming" for three consecutive years—the by-product of his impressive range of practice areas. After being named a "Future Star" earlier in his career, Ned is now recognized by *Benchmark Litigation* as a "Litigation Star" and has been selected to *Benchmark's* "40 & Under List." He has also been named a "Leading Lawyer" by *The Legal 500*, whose sources remarked that he "is one of the best plaintiffs' lawyers in Delaware," who "commands respect and generates productive discussion where it is needed." *The National Law Journal* has also named Ned a "Plaintiffs' Trailblazer." *Lawdragon* has also recognized him as one of the country's "500 Leading Plaintiff Financial Lawyers." Notably, Ned was named a "Litigator of the Week" by *The American Lawyer Litigation Daily* for securing a historic \$1 billion cash settlement in a suit against Dell Technologies.

Ned is actively prosecuting, among other matters, *In re Straight Path Communications Inc. Consolidated Stockholder Litigation*, which alleges breaches of fiduciary duty by the controlling stockholder of Straight Path Communications, Howard Jonas, in connection with the company's sale to Verizon Communications Inc. He recently led a class and derivative action on behalf of stockholders of Providence Service Corporation—*Haverhill Retirement System v. Kerley*—that challenged an acquisition financing arrangement involving Providence's board chairman and his hedge fund. The case settled for \$10 million.

Ned was part of a team that achieved a \$12 million recovery on behalf of stockholders of ArthroCare Corporation in a case alleging breaches of fiduciary duty by the ArthroCare board of directors and other defendants in connection with Smith & Nephew, Inc.'s acquisition of ArthroCare. Other recent successes on behalf of stockholders include *In re Vaalco Energy Inc. Consolidated Stockholder Litigation*, which resulted in the invalidation of charter and bylaw provisions that interfered with stockholders' fundamental right to remove directors without cause.

Prior to joining Labaton Sucharow, Ned was a Litigation Associate at Grant & Eisenhofer P.A., where he gained substantial experience in all aspects of investor protection, including representing shareholders in matters relating to securities fraud, mergers and acquisitions, and alternative entities. Representative of Ned's experience in the Delaware Court of Chancery is *In re Barnes & Noble Stockholders Derivative Litigation*, in which Ned assisted in obtaining approximately \$29

million in settlements on behalf of Barnes & Noble investors. Ned was also part of the litigation team in *In re Clear Channel Outdoor Holdings, Inc. Shareholder Litigation*, the settlement of which provided numerous benefits for Clear Channel Outdoor Holdings and its shareholders, including, among other things, a \$200 million cash dividend to the company's shareholders.

Ned is a Member of the Advisory Board of the Institute for Law and Economic Policy (ILEP), a research and educational foundation dedicated to enhancing investor and consumer access to the civil justice system.

Ned earned his Juris Doctor from the Louis D. Brandeis School of Law at the University of Louisville, where he served on the Journal of Law and Education. He received his bachelor's degree, *cum laude*, from Miami University.



Mark S. Willis Partner

1050 Connecticut Ave., NW, Suite 500

Washington, DC 20036

571.332.2189

mwillis@labaton.com

Mark S. Willis is a Partner in the D.C. office of Labaton Sucharow LLP. With more than three decades of experience, Mark's practice focuses on domestic and international securities litigation. Mark advises leading pension funds, investment managers, and other institutional investors from around the world on their legal remedies when impacted by securities fraud and corporate governance breaches. Mark represents clients in U.S. litigation and maintains a significant practice advising clients on the pursuit of securities-related claims abroad.

Mark is recommended by *The Legal 500* for excellence in securities litigation and has been named one of *Lawdragon's* "500 Leading Plaintiff Financial Lawyer in America." Under his leadership, the Firm has been awarded *Law360* Practice Group of the Year Awards for Class Actions and Securities.

Mark represents institutions from the United Kingdom, Spain, the Netherlands, Denmark, Germany, Belgium, Canada, Japan, and the United States in a novel lawsuit in Texas against BP plc to salvage claims that were dismissed from the U.S. class action because the claimants' BP shares were purchased abroad (thus running afoul of the Supreme Court's *Morrison* rule that precludes a U.S. legal remedy for such shares). These previously dismissed claims have now been sustained and are being pursued under English law in a Texas federal court.

Mark also represents the Utah Retirement Systems in a shareholder action against the DeVry Education Group, and he represented the Arkansas Public Employees Retirement System in a shareholder action against The Bancorp (which settled for \$17.5 million), and Caisse de dépôt et placement du Québec, one of Canada's largest institutional investors, in a U.S. shareholder class action against Liquidity Services (which settled for \$17 million).

In the *Converium* class action, Mark represented a Greek institution in a nearly four-year battle that eventually became the first U.S. class action settled on two continents. This trans-Atlantic result saw part of the \$145 million recovery approved by a federal court in New York, and the rest by the Amsterdam Court of Appeal. The Dutch portion was resolved using the Netherlands then newly enacted Act on Collective Settlement of Mass Claims. In doing so, the Dutch Court issued a landmark decision that substantially broadened its jurisdictional reach, extending jurisdiction for the first time to a scenario in which the claims were not brought under Dutch law, the alleged wrongdoing took place outside the Netherlands, and none of the potentially liable parties were domiciled in the Netherlands.

In the corporate governance arena, Mark has represented both U.S. and overseas investors. In a shareholder derivative action against Abbott Laboratories' directors, he charged the defendants with mismanagement and fiduciary breaches for causing or allowing the company to engage in a 10-year off-label marketing scheme, which had resulted in a \$1.6 billion payment pursuant to a Justice

Department investigation—at the time the second largest in history for a pharmaceutical company. In the derivative action, the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act, as well as the restructuring of a board committee and enhancing the role of the Lead Director. In the *Parmalat* case, known as the “Enron of Europe” due to the size and scope of the fraud, Mark represented a group of European institutions and eventually recovered nearly \$100 million and negotiated governance reforms with two large European banks who, as part of the settlement, agreed to endorse their future adherence to key corporate governance principles designed to advance investor protection and to minimize the likelihood of future deceptive transactions. Securing governance reforms from a defendant that was not an issuer was a first at that time in a shareholder fraud class action.

Mark has also represented clients in opt-out actions. In one, brought on behalf of the Utah Retirement Systems, Mark negotiated a settlement that was nearly four times more than what its client would have received had it participated in the class action.

On non-U.S. actions Mark has advised clients, and represented their interests as liaison counsel, in more than 30 cases against companies such as Volkswagen, Olympus, the Royal Bank of Scotland, the Lloyds Banking Group, and Petrobras, and in jurisdictions ranging from the UK to Japan to Australia to Brazil to Germany.

Mark has written on corporate, securities, and investor protection issues—often with an international focus—in industry publications such as *International Law News*, *Professional Investor*, *European Lawyer*, and *Investment & Pensions Europe*. He has also authored several chapters in international law treatises on European corporate law and on the listing and subsequent disclosure obligations for issuers listing on European stock exchanges. He also speaks at conferences and at client forums on investor protection through the U.S. federal securities laws, corporate governance measures, and the impact on shareholders of non-U.S. investor remedies.

Mark earned his Juris Doctor from the Pepperdine University School of Law and his master’s degree from Georgetown University Law Center.



Nicole M. Zeiss Partner

140 Broadway
New York, NY 10005
212.907.0867
nzeiss@labaton.com

Nicole M. Zeiss is a Partner in the New York office of Labaton Sucharow. A litigator with two decades of experience, Nicole leads the Firm's Settlement Group, which analyzes the fairness and adequacy of the procedures used in class action settlements. Her practice focuses on negotiating and documenting complex class action settlements and obtaining the required court approval of the settlements, notice procedures, and payments of attorneys' fees.

Nicole was part of the Labaton Sucharow team that successfully litigated the \$185 million settlement in *In re Bristol-Myers Squibb Securities Litigation*. She played a significant role in *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement). Nicole also litigated on behalf of investors who have been damaged by fraud in the telecommunications, hedge fund, and banking industries. Over the past decade, Nicole has been actively involved in finalizing the Firm's securities class action settlements, including in cases against Massey Energy Company (\$265 million), SCANA (\$192.5 million), Fannie Mae (\$170 million), and Schering-Plough (\$473 million), among many others.

Prior to joining Labaton Sucharow, Nicole practiced poverty law at MFY Legal Services. She also worked at Gaynor & Bass practicing general complex civil litigation, particularly representing the rights of freelance writers seeking copyright enforcement.

Nicole is a member of the New York City Bar Association and the New York State Bar Association. Nicole also maintains a commitment to pro bono legal services.

She received a Juris Doctor from the Benjamin N. Cardozo School of Law, Yeshiva University, and earned a Bachelor of Arts in Philosophy from Barnard College.

Mark Bogen Of Counsel

140 Broadway

New York, NY 10005

702.210.7545

mbogen@labaton.com

Mark Bogen is Of Counsel in the New York office of Labaton Sucharow LLP. Mark advises leading pension funds and other institutional investors on issues related to corporate fraud in domestic and international securities markets. His work focuses on securities, antitrust, and consumer class action litigation, representing Taft-Hartley and public pension funds across the country.

Among his many efforts to protect his clients' interests and maximize shareholder value, Mark recently helped bring claims against and secure a settlement with Abbott Laboratories' directors, whereby the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act.

Mark has written weekly legal columns for the Sun-Sentinel, one of the largest daily newspapers circulated in Florida. He has been legal counsel to the American Association of Professional Athletes, an association of over 4,000 retired professional athletes. He has also served as an Assistant State Attorney and as a Special Assistant to the State Attorney's Office in the State of Florida.

Mark earned his Juris Doctor from Loyola University School of Law. He received his bachelor's degree from the University of Illinois.



Garrett J. Bradley Of Counsel

140 Broadway

New York, NY 10005

617.413.4892

gbradley@labaton.com

Garrett J. Bradley is Of Counsel to Labaton Sucharow LLP. Garrett has decades of experience helping institutional investors, public pension funds, and individual investors recover losses attributable to corporate fraud. A former state prosecutor, Garrett has been involved in hundreds of securities fraud class action lawsuits that have, in aggregate, recouped hundreds of millions of dollars for investors. Garrett's past and present clients include some of the country's largest public pension funds and institutional investors.

Garrett has been consistently named a "Super Lawyer" in securities litigation by Super Lawyers, a Thomson Reuters publication, and was previously named a "Rising Star." He was selected as one of "New England's 2020 Top Rated Lawyers" by ALM Media and Martindale-Hubbell. The American Trial Lawyers Association has named him one of the "Top 100 Trial Lawyers in Massachusetts." The Massachusetts Academy of Trial Attorneys gave him their "Legislator of the Year Award," and the Massachusetts Bar Association named him "Legislator of the Year."

Prior to joining the firm, Garrett worked as an Assistant District Attorney in the Plymouth County District Attorney's office. He also served in the Massachusetts House of Representatives, representing the Third Plymouth District, for sixteen years.

Garrett is a Fellow of the Litigation Counsel of America, an invitation-only society of trial lawyers comprised of less than 1/2 of 1% of American lawyers. He is also a member of the Public Justice Foundation and the Million Dollar Advocates Forum.

Garrett earned his Juris Doctor from Boston College Law School and his Bachelor of Arts from Boston College.



Guillaume Buell Of Counsel

140 Broadway
New York, NY 10005
212-907-0873
gbuell@labaton.com

Guillaume Buell is Of Counsel to Labaton Sucharow LLP. With over a decade of experience in securities law, Guillaume represents investors based in the United States and abroad in connection with domestic and international securities litigation, corporate governance matters, and shareholder rights disputes. His clients include public pension and Taft-Hartley funds, asset managers, high net worth individuals, and other sophisticated investors. As part of the Firm's Non-U.S. Securities Litigation Practice, which is one of the first of its kind, Guillaume serves as liaison counsel to institutional investors in select overseas matters. He also advises clients in connection with complex consumer matters.

Guillaume has represented investors and obtained significant recoveries in cases against CVS Caremark, Rent-A-Center, Castlight Health, Nu Skin Enterprises, and Genworth Financial, among others.

Prior to joining Labaton Sucharow, Guillaume was an attorney with Cahill Gordon & Reindel LLP in New York and Hicks Davis Wynn, P.C. in Houston, where he provided legal counsel to a wide range of Fortune 500 and other corporate clients in the aviation, construction, energy, financial, consumer, pharmaceutical, and insurance sectors in state and federal litigations, government investigations, and internal investigations.

Guillaume is an active member of the National Association of Public Pension Attorneys (NAPPA), where he serves as an appointed member of its Fiduciary & Governance Committee and Securities Litigation Committee. In addition, he is actively involved with the National Conference on Public Employee Retirement Systems, the Canadian Pension & Benefits Institute, the Michigan Association of Public Employee Retirement Systems, the National Association of Shareholder and Consumer Attorneys, the International Foundation of Employee Benefit Plans, and the Georgia Association of Public Pension Trustees.

Guillaume received his Juris Doctor from Boston College Law School and was the recipient of the Boston College Law School Award for outstanding contributions to the law school community. He was also a member of the National Environmental Law Moot Court Team, which advanced to the national quarterfinals and received best oralists recognition. While in law school, Guillaume was a Judicial Intern with the Honorable Loretta A. Preska, United States District Court for the Southern District of New York, and an Intern with the Government Bureau of the Attorney General of Massachusetts. He received his Bachelor of Arts, *cum laude* with departmental honors, from Brandeis University.

Guillaume is fluent in French and conversant in German. He is an Eagle Scout and actively involved in his hometown's local civic organizations.



Hui Chang Of Counsel

140 Broadway
New York, NY 10005
212.907.0648
hchang@labaton.com

Hui Chang is Of Counsel in the New York office of Labaton Sucharow LLP and concentrates her practice in the area of shareholder litigation and client relations. As a co-manager of the Firm's Non-U.S. Securities Litigation Practice, Hui focuses on advising institutional investor clients regarding fraud-related losses on securities, and on the investigation and development of securities fraud class, group, and individual actions outside of the United States.

Hui previously served as a member of the Firm's Case Development Group, where she was involved in the identification, investigation, and development of potential actions to recover investment losses resulting from violations of the federal securities laws, and corporate and fiduciary misconduct, and assisted the Firm in securing a number of lead counsel appointments in several class actions.

Prior to joining Labaton Sucharow, Hui was a Litigation Associate at a national firm primarily focused on securities class action litigation, where she played a key role in prosecuting a number of high-profile securities fraud class actions, including *In re Petrobras Sec. Litigation* (\$3 billion recovery).

Hui earned her Juris Doctor from the University of California, Hastings College of Law, where she worked as a Graduate Research Assistant and a Moot Court Teaching Assistant. She received her bachelor's degree from the University of California, Berkeley.

Hui is fluent in Portuguese and proficient in Taiwanese.



Derick I. Cividini Of Counsel

140 Broadway
New York, NY 10005
212.907.0706
dcividini@labaton.com

Derick I. Cividini is Of Counsel in the New York office of Labaton Sucharow LLP and serves as the Firm's Director of E-Discovery. Derick focuses on prosecuting complex securities fraud cases on behalf of institutional investors, including class actions, corporate governance matters, and derivative litigation. As the Director of E-discovery, he is responsible for managing the Firm's discovery efforts, particularly with regard to the implementation of e-discovery best practices for ESI (electronically stored information) and other relevant sources.

Derick was part of the team that represented lead plaintiff City of Edinburgh Council as Administering Authority of the Lothian Pension Fund in *In re Lehman Brothers Equity/Debt Securities Litigation*, which resulted in settlements totaling \$516 million against Lehman Brothers' former officers and directors as well as most of the banks that underwrote Lehman Brothers' offerings.

Prior to joining Labaton Sucharow, Derick was a litigation attorney at Kirkland & Ellis LLP, where he practiced complex civil litigation. Earlier in his litigation career, he worked on product liability class actions with Hughes Hubbard & Reed LLP.

Derick earned his Juris Doctor and Master of Business Administration from Rutgers University and received his bachelor's degree in Finance from Boston College.

He is admitted to practice in New York.



Joseph H. Einstein Of Counsel

140 Broadway

New York, NY 10005

212.907.0843

jeinstein@labaton.com

Joseph H. Einstein is Of Counsel in the New York office of Labaton Sucharow LLP. A seasoned litigator, Joe represents clients in complex corporate disputes, employment matters, and general commercial litigation. He has litigated major cases in state and federal courts and has argued many appeals, including appearing before the U.S. Supreme Court.

Joe has an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

His experience encompasses extensive work in the computer software field including licensing and consulting agreements. Joe also counsels and advises business entities in a broad variety of transactions.

Joe serves as a Mediator for the U.S. District Court for the Southern District of New York. He has served as a Commercial Arbitrator for the American Arbitration Association and currently is a FINRA Arbitrator and Mediator. Joe is a former member of the New York State Bar Association Committee on Civil Practice Law and Rules, and the Council on Judicial Administration of the Association of the Bar of the City of New York. He also is a former member of the Arbitration Committee of the Association of the Bar of the City of New York.

Joe received his Bachelor of Laws and Master of Laws from New York University School of Law. During his time at NYU, Joe was a Pomeroy and Hirschman Foundation Scholar and served as an Associate Editor of the *New York University Law Review*.



Derrick Farrell Of Counsel

222 Delaware Ave, Suite 1510

Wilmington, DE 19801

302.573.2530

dfarrell@labaton.com

Derrick Farrell is Of Counsel in the Delaware office of Labaton Sucharow LLP. He focuses his practice on representing shareholders in appraisal, class, and derivative actions.

Derrick has substantial trial experience as both a petitioner and a respondent on a number of high-profile matters, including *In re Appraisal of Ancestry.com, Inc.*; *IQ Holdings, Inc. v. Am. Commercial Lines Inc.*; and *In re Cogent, Inc. Shareholder Litigation*. He has also argued before the Delaware Supreme Court on multiple occasions.

Prior to joining Labaton Sucharow, Derrick practiced with Latham & Watkins LLP, where he gained substantial insight into the inner workings of corporate boards and the role of investment bankers in a sale process. Derrick started his career as a Clerk for the Honorable Donald F. Parsons, Jr., Vice Chancellor, Court of Chancery of the State of Delaware.

He has guest lectured at Harvard University and co-authored numerous articles for publications including the *Harvard Law School Forum on Corporate Governance and Financial Regulation* and *PLI*.

Derrick received his Juris Doctor, *cum laude*, from the Georgetown University Law Center. At Georgetown, he served as an advocate and coach to the Barrister's Council (Moot Court Team) and was Magister of Phi Delta Phi. He received his Bachelor of Science in Biomedical Science from Texas A&M University.



Lara Goldstone Of Counsel

140 Broadway

New York, NY 10005

212.907.0742

lgoldstone@labaton.com

Lara Goldstone is Of Counsel in the New York office of Labaton Sucharow LLP. Lara advises leading pension funds and other institutional investors in the United States and Canada on issues related to corporate fraud in the U.S. securities markets. Her work focuses on monitoring the well-being of institutional investments and counseling clients on best practices in securities, antitrust, corporate governance and shareholder rights and consumer class action litigation.

Lara has achieved significant settlements on behalf of clients. She represented investors in high-profile cases against LifeLock, KBR, Fifth Street Finance Corp., NII Holdings, Rent-A-Center, and Castlight Health. Lara has also served as legal adviser to clients who have pursued claims in state court, derivative actions in the form of serving books and records demands, non-U.S. actions and antitrust class actions including pay-for-delay or “product hopping” cases in which pharmaceutical companies allegedly obstructed generic competitors in order to preserve monopoly profits on patented drugs, such as *In re Generic Pharmaceuticals Pricing Antitrust Litigation*.

Before joining Labaton Sucharow, Lara worked as a Legal Intern in the Larimer County District Attorney’s Office and the Jefferson County District Attorney’s Office. She also volunteered at Crossroads Safehouse, which provided legal representation to victims of domestic violence. Prior to her legal career, Lara worked at Industrial Labs where she worked closely with Federal Drug Administration standards and regulations. In addition, she was a teacher in Irvine, California.

She is a member of the Firm’s Women’s Initiative.

Lara earned her Juris Doctor from the University of Denver Sturm College of Law, where she was a judge of the Providence Foundation of Law & Leadership Mock Trial and a competitor of the Daniel S. Hoffman Trial Advocacy Competition. She received her bachelor’s degree from George Washington University, where she was a recipient of a Presidential Scholarship for academic excellence.



David J. MacIsaac Of Counsel

140 Broadway

New York, NY 10005

212.907.0866

dmacisaac@labaton.com

David J. MacIsaac is Of Counsel in the New York office of Labaton Sucharow LLP. David represents shareholders in securities litigation and corporate governance matters.

David has successfully prosecuted cases against Versum Materials, Inc.; Stamps.com Inc.; and Expedia Group, Inc.

Prior to joining Labaton Sucharow, David was an Associate at Bernstein Litowitz Berger & Grossmann, where he focused on analyzing new matters and litigating governance cases, with a focus on breaches of fiduciary duty and transactional litigation. He was also previously an Associate at Kirkland & Ellis, where he worked on a variety of general commercial litigation matters.

David earned his Juris Doctor, *cum laude*, from Georgetown University where he was a member of *The Georgetown Journal of Law and Modern Critical Race Perspective*. He received his bachelor's degree in European History and Government from Franklin and Marshall College.



James McGovern Of Counsel

140 Broadway

New York, NY 10005

202.772.1881

jmcgovern@labaton.com

James McGovern is Of Counsel in the New York office of Labaton Sucharow LLP. He advises leading pension funds and other institutional investors on issues related to corporate fraud in domestic and international securities markets. James' work focuses primarily on securities litigation and corporate governance, representing Taft-Hartley and public pension funds and other institutional investors in domestic securities actions. James also advises clients regarding potential claims tied to securities-related actions in foreign jurisdictions.

James has worked on a number of significant securities class actions, including *In re Worldcom, Inc. Securities Litigation* (\$6.1 billion recovery), the second-largest securities class action settlement since the passage of the PSLRA; *In re Parmalat Securities Litigation* (\$90 million recovery); *In re American Home Mortgage Securities Litigation* (opt-out client's recovery is confidential); *In re The Bancorp Inc. Securities Litigation* (\$17.5 million recovery); *In re Pozen Securities Litigation* (\$11.2 million recovery); *In re Cabletron Systems, Inc. Securities Litigation* (\$10.5 million settlement); *In re UICI Securities Litigation* (\$6.5 million recovery); and *In re SCANA Securities Litigation* (\$192.5 million recovery).

In the corporate governance arena, James helped bring claims against Abbott Laboratories' directors for mismanagement and breach of fiduciary duties in allowing the company to engage in a 10-year off-label marketing scheme. Upon settlement of this action, the company agreed to implement sweeping corporate governance reforms, including an extensive compensation clawback provision going beyond the requirements under the Dodd-Frank Act.

Following the unprecedented takeover of Fannie Mae and Freddie Mac by the federal government in 2008, James was retained by a group of individual and institutional investors to seek recovery of the massive losses they incurred when the value of their shares in these companies was essentially destroyed. He brought and continues to litigate a complex takings class action against the federal government for depriving Fannie Mae and Freddie Mac shareholders of their property interests in violation of the Fifth Amendment and for causing tens of billions of dollars in damages.

Prior to focusing his practice on plaintiffs' securities litigation, James was an attorney at Latham & Watkins where he worked on complex litigation and FIFRA arbitrations, as well as matters relating to corporate bankruptcy and project finance.

James is also an accomplished public speaker and has addressed members of several public pension associations, including the Texas Association of Public Employee Retirement Systems and the Michigan Association of Public Employee Retirement Systems, on how institutional investors can guard their assets against the risks of corporate fraud and poor corporate governance.

James earned his Juris Doctor, *magna cum laude*, from Georgetown University Law Center. He received his bachelor's and master's degrees from American University, where he was awarded a Presidential Scholarship and graduated with high honors.



Elizabeth Rosenberg Of Counsel

140 Broadway
New York, NY 10005
212.907.0889
erosenberg@labaton.com

Elizabeth Rosenberg is Of Counsel in the New York office of Labaton Sucharow LLP. Elizabeth focuses on litigating complex securities fraud cases on behalf of institutional investors, with a focus on obtaining court approval of class action settlements, notice procedures and payment of attorneys' fees.

Prior to joining Labaton Sucharow, Elizabeth was an Associate at Whatley Drake & Kallas LLP, where she litigated securities and consumer fraud class actions. Elizabeth began her career as an Associate at Milberg LLP where she practiced securities litigation and was also involved in the pro bono representation of individuals seeking to obtain relief from the World Trade Center Victims' Compensation Fund.

Elizabeth earned her Juris Doctor from Brooklyn Law School. She received her bachelor's degree from the University of Michigan.



William Schervish Of Counsel

140 Broadway
New York, NY 10005
212.907.0886
wschervish@labaton.com

William “Bill” Schervish is Of Counsel in the New York office of Labaton Sucharow LLP and serves as the Firm's Director of Financial Research. As a key member of the Firm's Case Development Group, Bill identifies, analyzes, and develops cases alleging securities fraud and other forms of corporate misconduct that expose the Firm's institutional clients to legally recoverable losses. Bill also evaluates and develops cases on behalf of confidential whistleblowers for the Securities and Exchange Commission.

Bill has been practicing securities law for more than 15 years. As a complement to his legal experience, Bill is a Certified Public Accountant (CPA), a CFA® Charterholder, and a Certified Fraud Examiner (CFE) with extensive work experience in accounting and finance.

Prior to joining the Firm, Bill worked as a finance attorney at Mayer Brown LLP, where he drafted and analyzed credit default swaps, indentures, and securities offering documents on behalf of large banking institutions. Bill's professional background also includes positions in controllership, securities analysis, and commodity trading. He began his career as an auditor at PricewaterhouseCoopers.

Bill earned a Juris Doctor, cum laude, from Loyola University and received a Bachelor of Science, cum laude, in Business Administration from Miami University, where he was a member of the Business and Accounting Honor Societies.



John Vielandi Of Counsel

140 Broadway
New York, NY 10005
212.907.0829
jvielandi@labaton.com

John Vielandi is Of Counsel in the New York office of Labaton Sucharow LLP. John researches, analyzes and assesses potential new shareholder litigations with a focus on breaches of fiduciary duty and mergers and acquisitions.

John has successfully prosecuted cases against Versum Materials, Inc.; Stamps.com Inc.; and Expedia Group, Inc.

John joined the Firm from Bernstein Litowitz Berger & Grossmann, where he was a key member of the teams that litigated numerous high profile actions, including *City of Monroe Employees' Retirement System v. Rupert Murdoch et al.* and *In re Vaalco Energy, Inc. Consolidated Stockholder Litigation*. While in law school, John was a legal intern at the New York City Office of Administrative Trials and Hearings and a judicial intern for the Honorable Carolyn E. Demarest of the New York State Supreme Court.

John earned his Juris Doctor from Brooklyn Law School, where he was the Notes and Comments Editor for the *Journal of Corporate, Financial and Commercial Law*, and was awarded the CALI Excellence for the Future Award. He received his bachelor's degree from Georgetown University.

EXHIBIT 7

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

YAO-YI LIU, TUNG-HUNG HSIEH, and
CHIU-PAO TSAI Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

Civil No. 6:14-cv-06631-EAW-MJP

WILMINGTON TRUST COMPANY, and
WILMINGTON TRUST, NATIONAL
ASSOCIATION,

Defendants.

**DECLARATION OF ADAM B. WOLF, ON BEHALF OF
PLAINTIFFS AND THEIR LAW FIRM, PEIFFER WOLF, IN SUPPORT OF
APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, ADAM B. WOLF, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner of the law firm of Peiffer Wolf Carr Kane Conway & Wise, LLP. I am submitting this declaration in support of my firm's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action (the "Action") from inception through January 5, 2023 (the "Time Period").

2. My firm served as Court-appointed counsel in the Action. We were involved in many aspects of the litigation. Among other activities, my firm conducted the initial fact investigation for this Action, devised the legal theories, drafted the complaint, met with the clients and witnesses—on multiple occasions—in Taiwan, and conducted discovery.

3. The information in this declaration regarding my firm's time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. I reviewed these records (and backup documentation where necessary) to confirm the

accuracy of the entries, as well as the necessity for and reasonableness of the time and expenses committed to the Action. The review also confirmed that the firm's guidelines and policies regarding expenses were followed. In the exercise of billing judgment, I then made reductions to both time and expenses. As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

4. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by attorneys of my firm who were involved in the prosecution of the Action, and the lodestar calculation based on my firm's current hourly rates. (I have not included any lodestar for paralegals or other support staff.) The schedule was prepared from daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

5. After making the above-referenced reductions, the total number of hours spent on this Action reported by my firm during the Time Period is 1164. The total lodestar amount for this reported attorney time based on the firm's current rates is \$793,852.50.

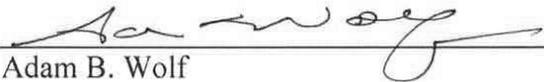
6. The hourly rates for the attorneys of my firm included in Exhibit A are my firm's usual and customary hourly rates, which are paid by cash-paying clients and/or have been approved by Courts in other class actions. My firm's lodestar figures are based upon the firm's hourly rates, which do not include charges for expense items. Expense items are recorded separately and are not duplicated in my firm's hourly rates.

7. As detailed in Exhibit B, my firm has incurred (and paid) a total of \$58,399.56 in expenses in connection with the prosecution of the Action. This number is the sum after deducting certain expenses in the interest of billing discretion.

8. The expenses pertaining to the Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred.

9. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm, including the biographies of some of the firm's partners.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 5th day of January 2023, in Los Angeles California.


Adam B. Wolf

YAO-YI LIU, ET AL. V. WILMINGTON TRUST COMPANY, ET AL.
No. 6:14-cv-06631-EAW-MJP (W.D.N.Y.)

EXHIBIT A

LODESTAR REPORT

FIRM: Peiffer Wolf Carr Kane Conway & Wise, LLP
REPORTING PERIOD: Inception through January 5, 2023

PROFESSIONAL	STATUS	HOURLY RATE	HOURS	LODESTAR
Alan Rosca*	P	\$725.00	455.5	330,237.50
Adam Wolf	P	\$950.00	142.1	134,995.00
Lydia Floyd	OC	\$750.00	85.5	64,125.00
James Booker	A	\$550.00	15.3	8,415.00
Colin Ray	A	\$550.00	274.5	150,975.00
Drew Morock	A	\$550.00	191.1	105,105.00
TOTAL				\$793,852.50

*Mr. Rosca was a partner at Peiffer Wolf during the inception of this case, and until the time (in 2018) he joined his current firm. The lodestar listed here encompasses his time devoted to the Action only while he was employed at Peiffer Wolf.

Partner (P)
Of Counsel (OC)
Associate (A)
Paralegal (PL)

YAO-YI LIU, ET AL. V. WILMINGTON TRUST COMPANY, ET AL.
No. 6:14-cv-06631-EAW-MJP (W.D.N.Y.)

EXHIBIT B

EXPENSE REPORT

FIRM: Peiffer Wolf Carr Kane Conway & Wise, LLP
REPORTING PERIOD: Inception through January 5, 2023

CATEGORY	AMOUNT
Duplicating (outside vendors only / no in-house copy charges)	\$200.39
Postage / Overnight Delivery Services	\$164.53
Long Distance Telephone / Fax/ Conference Calls	No charge (\$0)
Court / Witness / Service Fees	\$2165.65
Contribution to Litigation Fund	\$0
Computer Research Fees	\$319.42
Work-Related Transportation / Meals / Lodging (including multiple trips for client meetings)	\$39,968.93
Document hosting / eDiscovery server	\$15,580.64
TOTAL	\$58,399.56