UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE VNET GROUP, INC. SECURITIES LITIGATION

Case No. 1:23-cv-11187-DEH

CLASS ACTION

Hon. Dale E. Ho

PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION EXPENSES, AND COMPENSATORY AWARDS FOR PLAINTIFFS

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Pursuant to Federal Rule of Civil Procedure ("Rule") 23(e), Lead Plaintiff Wong Tan ("Lead Plaintiff") and additional named Plaintiff Michael Semerak (collectively, "Plaintiffs"), on behalf of themselves and the Class, and Lead Counsel Pomerantz LLP ("Lead Counsel") and additional counsel Glancy Prongay Wolke & Rotter LLP (collectively, "Plaintiffs' Counsel")[1] respectfully submit this memorandum in support of their motion for (1) an award of attorneys' fees of one-third (33 1/3%) of the Settlement Fund plus accrued interest; (2) reimbursement of necessary and reasonable litigation expenses of $56,647.20; and (3) compensatory awards of $15,000 for Lead Plaintiff Wong Tan and $10,000 for additional named Plaintiff Michael Semerak.

I. INTRODUCTION

Plaintiffs' Counsel and Plaintiffs have secured a very favorable $5.875 million cash Settlement to provide a Net Settlement Fund for the benefit of the Class to resolve this securities class action against VNET Group, Inc. ("VNET" or the "Company"), Josh Sheng Chen ("Sheng Chen"), Jie Dong ("Dong"), Samuel Shen ("Shen"), and Tim Chen ("Chen") (collectively, "Defendants") after more than two years of litigation. Plaintiffs' Counsel, who have received no payment to date, now seek attorneys' fees of one-third of the Settlement Amount and interest accrued thereon while in escrow. Fees at this percentage are regularly approved by courts in this Circuit. *See*, *e.g.*, *Capsolas v. Pasta Res. Inc.*, 2012 WL 4760910, at *8 (S.D.N.Y. Oct. 5, 2012) ("Class counsel's request for one third of the Fund is reasonable and consistent with the norms of class litigation in this circuit"); *Mohney v. Shelly's Prime Steak, Stone Crab & Oyster Bar*, 2009 WL 5851465, at *5 (S.D.N.Y. Mar. 31, 2009) (noting that "Class Counsel's request for 33% of the Settlement Fund is typical in class action settlements in the Second Circuit."); *Gilliam v.*

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[1] Unless otherwise defined herein, all capitalized terms shall have the meanings provided in the Stipulation and Agreement of Settlement, fully executed on April 3, 2026 (the "Stipulation"), ECF No. 66-1.

Addicts Rehab. Ctr. Fund, 2008 WL 782596, at *5 (S.D.N.Y. Mar. 24, 2008) (fee equal to one-third of the settlement fund is reasonable and "consistent with the norms of class litigation in this circuit"); *Bozak v. FedEx Ground Package Sys., Inc.*, 2014 WL 3778211, at *7 (D. Conn. July 31, 2014) ("The one-third amount that plaintiffs request is typical of fee awards in this Circuit."); *Guevoura Fund Ltd. v. Sillerman*, 2019 WL 6889901, at *15-21 (S.D.N.Y. Dec. 18, 2019) (same) (collecting cases).

Plaintiffs have determined that the request is reasonable and consistent with their retainer agreements. *See* Declaration of Wong Tan ("Wong Decl.") and Declaration of Michael Semerak ("Semerak Decl."), attached as Exhibits 1 and 2 to Declaration of Christopher P.T. Tourek ("Tourek Decl.") filed herewith. Moreover, the amount sought is a modest 1.84 multiplier of lodestar. Plaintiffs' Counsel have spent more than 1,266 hours prosecuting this case against Defendants, with a lodestar of $1,062,070.25.

For more than two years, Plaintiffs' Counsel have vigorously litigated this action without compensation, including: (1) conducted an intensive investigation before filing an amended complaint (which included, among other things, a review of United States Securities and Exchange Commission filings, press releases, earnings presentations, conference call transcripts, and other information prepared for investors by VNET, as well as media and analyst reports about the Company); (2) drafted and filed a 57-page Amended Complaint; (3) briefed an opposition to Defendants' motion to dismiss; (4) met and conferred with Defendants, and subsequently drafted a joint case management plan and scheduling order; (5) drafted correspondence with the Court in advance of the Court's initial pretrial conference; (6) drafted Rule 26(a)(1) initial disclosures; (7) analyzed and determined how to obtain evidence in multiple jurisdictions, including obtaining a Letter Rogatory to access certain international evidence; (8) drafted requests for production of documents and interrogatories to Defendants; (9) analyzed Defendants' requests for production of documents and interrogatories and drafted responses thereto; (10) met and conferred with Defendants on their discovery requests; (11) drafted relevant search terms for requests for production of documents to Defendants and negotiated those search terms with Defendants; (12) drafted a protective order and ESI protocol; (13) met and conferred with Defendants on the protective order and ESI protocol; (14) drafted and issued subpoenas duces tecum to relevant third parties; (15) met and conferred with relevant third parties on the requests for production of documents; (16) reviewed and analyzed lending documents received from third-party lenders to determine the impact of Sheng Chen's default of the Bold Ally loan on the loan agreements and to VNET; (17) employed damages experts to determine the total estimated damages for Defendants' alleged misrepresentations and omissions; (18) researched and analyzed case law regarding potential class certification issues related to statistical significance of corrective disclosures; (19) investigated and reviewed Chinese language materials; (20) reviewed and analyzed Defendants' insurance policies; (21) drafted a detailed 17-page mediation statement; (22) participated in an in-person, full-day mediation in front of a respected mediator; and (23) continued subsequent negotiations with the Defendants and the mediator that resulted in this Settlement. Thus, they had ample information to evaluate the risks and merits of the Settlement relative to continued litigation.

Strategic Claims Services ("SCS"), the Claims Administrator, provided individual notice of the Settlement via e-mail, or where e-mail could not be identified or was returned as undeliverable, first-class mail to each member of the Class whose address was reasonably ascertainable, and caused publication of the Summary Notice via *Globe Newswire* on June 10, 2026. *See* Declaration of Josephine Bravata ("Bravata Decl."), attached as Exhibit 3 to Tourek Decl., ¶¶3-9. The Notice amply described the terms of the Settlement, including: (a) the nature, history, and progress of the litigation; (b) the proposed Settlement; (c) the final approval hearing; (d) the process to opt out of, or object to, the Settlement; (e) the plan for allocating the settlement among class members; (f) the maximum amount of fees and expenses to be sought by counsel, and the maximum amount of compensatory awards to be sought for Plaintiffs; and (g) the necessary information for any Class Member to find more information or examine the Court records should he or she desire to do so. *Id*. The deadline for objections and requests for exclusion is August 6, 2026. Although 15,364 Class Members were individually provided notice by mail or email (as well as by publication), thus far, no Class Member has objected or requested exclusion. Tourek Decl., ¶¶45-46.

Plaintiffs' Counsel also respectfully request reimbursement of $56,647.20 in expenses that they reasonably and necessarily incurred in prosecuting this litigation. *See* Tourek Decl., ¶¶80-88. Finally, Lead Plaintiff Tan and additional Plaintiff Semerak request awards of $15,000 and $10,000 respectively to compensate them for their time and service to the Class. Among other things, they spent substantial time researching the facts of the case, reviewing filings, producing documents, responding to interrogatories, and conferring with Lead Counsel about litigation strategy and settlement.

II. ARGUMENT

A. Plaintiffs' Counsel are Entitled to an Award of Attorneys' Fees and Expenses from the Common Fund

The U.S. Supreme Court and Second Circuit both recognize that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). This ensures that "competent counsel continue to be willing to undertake risky, complex, and novel litigation." *Manual for Complex Litigation (Fourth)* §14.121 (2004). "The court's authority to reimburse the representative parties … stems from the fact that the class-action device is a creature of equity and the allowance of attorney-related costs is considered part of the historic equity power of the federal courts." 7B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* §1803 (3d ed. 2005). The purpose of the common fund doctrine is to fairly and adequately compensate class counsel for services rendered and to ensure that all class members contribute equally towards the costs associated with litigation pursued on their behalf. *See Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 47 (2d Cir. 2000); *City of Providence v. Aeropostale, Inc.*, 2014 WL 1883494, at *10-11 (S.D.N.Y. May 9, 2014). In addition to providing just compensation, awards of fair attorneys' fees from a common fund should also serve to encourage skilled counsel to represent those who seek redress for damages inflicted on entire classes of persons, and to discourage similar alleged misconduct in the future. *See, e.g., City of Providence*, 2014 WL 1883494, at *10-11; *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 369 (S.D.N.Y. 2002).

The Supreme Court has repeatedly underscored that private securities actions, such as this one, provide "'a most effective weapon in the enforcement' of the securities laws and are 'a necessary supplement to [SEC] action." *Bateman Eichler, Hill Richards, Inc. v. Berner*, 472 U.S. 299, 310 (1985). Thus, it "is well established that where an attorney creates a common fund from which members of a class are compensated for a common injury, the attorneys who created the fund are entitled to a reasonable fee—set by the court—to be taken from the fund." *See In re Top Tankers, Inc. Sec. Litig.*, 2008 WL 2944620, at *12 (S.D.N.Y. July 31, 2008). Moreover, the "[d]etermination of 'reasonableness' is within the discretion of the district court." *In re Interpublic Sec. Litig.*, 2004 WL 2397190, at *10 (S.D.N.Y. Oct. 26, 2004). Here, Plaintiffs' Counsel's request for one-third (33 1/3%) of the Settlement Amount plus interest accrued thereon is eminently reasonable in light of the work performed and the result achieved.

B. The Court Should Award a Reasonable Percentage of the Common Fund

The Supreme Court has long explained that where counsel has created a common fund, attorneys' fees are properly determined on a percentage-of-recovery basis. *See Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984) ("under the 'common fund doctrine,' … a reasonable fee is based on a percentage of the fund bestowed on the class"). The Second Circuit likewise encourages district courts to employ the percentage-of-the-fund method, although the lodestar method may also be used. *See Goldberger*, 209 F.3d at 47; *see also Hayes v. Harmony Gold Mining Co.*, 509 F. App'x 21, 24 (2d Cir. 2013) (affirming district court's conclusion that the percentage method "aligns the interests of class counsel with those of the class"). In *Goldberger*, the Second Circuit recognized that "the lodestar method proved vexing" and resulted in "an inevitable waste of judicial resources." 209 F.3d at 48-49. Consistent with *Goldberger*, courts in this District routinely use the percentage method to calculate attorneys' fees in common fund cases. *See, e.g., In re Flag Telecom Holdings, Ltd. Sec. Litig.*, 2010 WL 4537550, at *23 (S.D.N.Y. Nov. 5, 2010) ("the percentage of recovery methodology is considered the 'most efficient and logical means' for calculating attorneys' fees"); *In re PPDAI Grp. Inc. Sec. Litig.*, 2022 WL 198491, at *14 (E.D.N.Y. Jan. 21, 2022) (recognizing that the percentage method "is the trend in this Circuit"); *see also Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 121-22 (2d Cir. 2005) (similar).

The Private Securities Litigation Reform Act of 1995 ("PSLRA") also supports using the percentage-of-recovery method: "[t]otal attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount" recovered for the class. 15 U.S.C. §78u-4(a)(6). Some courts have concluded that, by drafting the PSLRA in such a manner, Congress expressed a preference for the percentage method in assessing fees for securities class actions. *See In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115808, at *3 (S.D.N.Y. Nov. 7, 2007).

The percentage approach also has other advantages. It best aligns the interests of counsel and the class, *see In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 348 (S.D.N.Y. 2014), and best serves "as a proxy for the market in setting counsel fees." *In re Am. Bank Note Holographics, Inc.*, 127 F. Supp. 2d 418, 432 (S.D.N.Y. 2001). As demonstrated below, this request is fair and reasonable.

C. Relevant Factors Confirm that the Requested Fee Is Reasonable

The *Goldberger* factors the Second Circuit identified as relevant in assessing requests for attorneys' fees support the fee request here. These include: (1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations. *Goldberger*, 209 F.3d at 50. These factors demonstrate that Counsel's requested one-third fee is fair and reasonable.

1. The Time and Labor Expended by Lead Counsel Support the Requested Fee

Plaintiffs' Counsel have expended a substantial amount of time and effort pursuing this litigation on behalf of the Class. Since this Action's inception, Plaintiffs' Counsel have devoted more than 1,266 hours to this litigation. Tourek Decl., ¶¶65-69. At the pleadings stage, they thoroughly investigated the legal and factual bases for claims against Defendants. This thorough investigation led Plaintiffs' Counsel to expand the scope of claims in the Amended Complaint, adding a number of additional alleged misrepresentations made by Defendants, asserting causes of action under Sections 10b-5(a)-(c), and expanding the class period (ECF No. 34). The Amended Complaint also added extensive detail to the initially-pleaded causes of action. *Id.* Most importantly, Plaintiffs' Counsel was able to ascertain through its investigation a key default provision of Defendant Sheng Chen's contract that had been redacted in public disclosure, but which was later triggered, as well as Chinese-language reports of the impact of a potential foreclosure of Defendant Sheng Chen's shares on VNET's other financing.

Plaintiffs' Counsel also analyzed Defendants' motion to dismiss (ECF No. 36), thoroughly researched applicable case law, and drafted a compelling opposition explaining why dismissal would be inappropriate (ECF No. 39). As a result of these arguments and the detailed allegations of the Amended Complaint, all core claims were sustained and only the scheme liability claim was narrowed in the Court's September 15, 2025 Opinion and Order. ECF No. 43.

Following the September 15, 2025 Order, Plaintiffs' Counsel met and conferred with Defendants. They subsequently drafted and filed a joint case management plan and scheduling order, along with correspondence in advance of the Court's initial pretrial conference (ECF No. 47).

Plaintiffs' Counsel next devoted considerable resources to engaging in fact discovery to prove Plaintiffs' claims. This included drafting initial disclosures, drafting and serving on Defendants comprehensive discovery requests, and attending meet-and-confers with Defendants to resolve Defendants' objections to the discovery requests. Following the meet-and-confers, Plaintiffs' Counsel drafted bilingual search terms (in English and Chinese) for production of documents to Defendants and negotiated with Defendants on the search terms. Plaintiffs' Counsel analyzed Defendants' discovery requests for production of documents and interrogatories and drafted responses thereto. Plaintiffs' Counsel also drafted and filed a motion seeking a Letter of Request to the Cayman Islands, which the Court issued (ECF Nos. 58-61). To facilitate discovery, Plaintiffs' Counsel drafted a protective order and ESI protocol and negotiated with Defendants on the same. Plaintiffs' Counsel issued subpoenas duces tecum to relevant third parties and met and conferred with the third parties regarding the subpoenas. Plaintiffs' Counsel then reviewed documents produced by third-party lenders.

Plaintiffs' Counsel employed a damages expert to determine the total estimated damages for Defendants' alleged misrepresentations and omissions and conducted comprehensive research in case law regarding potential class certification issues related to statistical significance of corrective disclosures. Plaintiffs' Counsel then further researched and analyzed Chinese materials related to corrective disclosures. Plaintiffs' Counsel reviewed and analyzed Defendants' insurance policies to determine potential coverage of Plaintiffs' claims.

During discovery, Plaintiffs' Counsel promptly conferred with counsel for Defendants, who agreed that it would be beneficial to attempt settlement discussions before full-scale fact discovery. Plaintiffs' Counsel prepared a 17-page mediation statement and participated in a mediation on January 9, 2026, before Jed Melnick, Esq., an experienced mediator who has settled many securities fraud class actions. Tourek Decl., ¶25. While the mediation did not initially resolve the Action, the Parties subsequently engaged in several follow-up negotiations and ultimately accepted the mediator's proposal. Tourek Decl., ¶¶25-27.

Throughout the litigation, Plaintiffs' Counsel's efforts focused on advancing the Action to bring about a favorable outcome for the Class, whether through settlement or trial, by the most efficient means possible. Plaintiffs' Counsel's significant efforts support the requested fee award. *See, e.g., In re Facebook, Inc. IPO Sec. & Deriv. Litig.*, 2015 WL 6971424, at *10 (S.D.N.Y. Nov. 9, 2015) ("Considering that the work in this matter is not yet concluded for Plaintiffs' counsel who will necessarily need to oversee the claims process, respond to inquiries, and assist Class Members in submitting their Proof of Claims, the time and labor expended by counsel in this matter support a conclusion that a 33% fee award in this matter is reasonable."); *see also In re PPDAI Grp. Inc. Sec. Litig.*, 2022 WL 198491, at *14-17.

2. The Magnitude and Complexity of the Action Support the Requested Fee

The magnitude and complexity of the Action also support the fee request. Courts regularly recognize that securities class action litigation is "notably difficult and notoriously uncertain." *City of Providence,* 2014 WL 1883494, at *5; *In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *4 (S.D.N.Y. July 21, 2020) ("securities class actions are generally complex and expensive to prosecute").

As detailed in the Tourek Decl., this Action raised difficult questions concerning, among other things, Sheng Chen's default on the Facility Agreement and whether that default and the resulting Early Termination events were material facts requiring disclosure to investors, whether VNET's $850 million in outstanding convertible bonds and domestic loans were at serious risk of triggering Change of Control clauses as a result of Sheng Chen's concealed default, whether Sheng Chen's filing of a redacted version of the Facility Agreement with the SEC—replacing the $8.50 Early Termination trigger price and the event of default clause with asterisks—constituted an intentional act to defraud investors, whether VNET and its senior executives knew of the Facility Agreement's terms, and whether VNET's financing conditions were materially different than as presented in its SEC filings and earnings calls. Prosecuting these claims required skill and perseverance. Accordingly, the magnitude and complexity of the Action support the conclusion that the requested fee is fair and reasonable. *See City of Providence*, 2014 WL 1883494, at *16 ("[T]he complex and multifaceted subject matter involved in a securities class action such as this supports the fee request.").

3. The Risks of the Litigation Support the Requested Fee

In the Second Circuit, "the risk of success" is "perhaps the foremost factor to be considered in determining" a reasonable award. *Goldberger*, 209 F.3d at 54. Courts within the Second Circuit have long recognized that the risk of non-payment associated with a contingency arrangement is an important factor in determining an appropriate fee award. *See City of Providence*, 2014 WL 1883494, at *14. "Little about litigation is risk-free, and class actions confront even more substantial risks than other forms of litigation." *Teachers' Ret. Sys. of Louisiana v. A.C.L.N., Ltd.*, 2004 WL 1087261, at *3 (S.D.N.Y. May 14, 2004); *City of Providence*, 2014 WL 1883494, at *14 (same). Thus, it is "appropriate to take this [contingent fee] risk into account in determining the appropriate fee to award." *In re Am. Bank Note Holographics, Inc.*, 127 F. Supp. 2d at 433; *In re Prudential Sec. Inc. Ltd. Partnerships Litig.*, 985 F. Supp. 410, 417 (S.D.N.Y. 1997) ("Numerous courts have recognized that the attorney's contingent fee risk is an important factor in determining the fee award.").

This risk encompasses not just the risk of no payment, but also the risk of underpayment. *See Matter of Cont'l Illinois Sec. Litig.*, 962 F.2d 566, 569-70 (7th Cir. 1992) (reversing district court's fee award where court failed to account for, among other things, risk of underpayment to counsel). Here, Plaintiffs' Counsel pursued claims on behalf of the Class for more than two years, with no guarantee of ever being compensated for the investment of time and money that the case would require. In undertaking this responsibility, they dedicated substantial attorney and professional resources to the prosecution of the litigation. Plaintiffs' Counsel also advanced over $56,647 in out-of-pocket expenses with no guarantee that those expenses would ever be reimbursed. Not only do contingent litigation firms have to pay regular overhead, but they also must advance the expenses of the litigation. The financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis.

While Plaintiffs' Counsel firmly believed in the strength of their case, "[p]recedent is replete with situations in which attorneys representing a class have devoted substantial resources in terms of time and advanced costs yet have lost the case despite their advocacy." *See In re Xcel Energy, Inc., Sec., Derivative & "ERISA" Litig.*, 364 F. Supp. 2d 980, 994 (D. Minn. 2005). "The difficulty of establishing liability is a common risk of securities litigation." *In re AOL Time Warner, Inc.*, 2006 WL 903236, at *11 (S.D.N.Y. Apr. 6, 2006). As one court has noted, an "unfortunate byproduct of the PSLRA is that potentially meritorious suits will be short-circuited by the heightened pleading standard." *Bryant v. Avado Brands, Inc.*, 100 F. Supp. 2d 1368, 1377 (M.D. Ga. 2000), *rev'd on other grounds sub nom. Bryant v. Dupree*, 252 F.3d 1161 (11th Cir. 2001). Indeed, the high rate of dismissals in securities class actions demonstrates the risks involved as compared to the prospects for success. Cornerstone reports that of securities class actions filed from 2015 through 2022, an average of 54% of cases have been dismissed.[2] According to NERA, the rate of dismissal in securities class actions has steadily increased over time: in 2016, a little over one third of cases resolved were dismissed, whereas in 2025, over half of the cases filed that resolved were dismissed.[3] Plaintiffs faced that considerable risk here.

Further, Defendants would have continued to argue that even if Plaintiffs could establish a material misstatement or omission, there was no evidence upon which the requisite mental state of scienter (*i.e.*, that Defendants misled investors intentionally or with extreme recklessness) could be established. The scienter requirement is commonly regarded as the most difficult element to

[2] Cornerstone Research, "Securities Class Action Filings, 2025 Year in Review," at p.16 figure 15 (of the cases filed in 2023 20% are settled, 33% are continuing and less than 1% were remanded).
[3] NERA Economic Consulting, Edward Flores, Svetlana Starykh, and Ivelina Velikova, "Recent Trends in Securities Class Action Litigation: 2025 Full-Year Review," January 21, 2026 at 14.

prove in a securities fraud claim. *See, e.g.*, *Fishoff v. Coty Inc.*, 2010 WL 305358, at *2 (S.D.N.Y. Jan. 25, 2010), *aff'd*, 634 F.3d 647 (2d Cir. 2011) ("[T]he element of scienter is often the most difficult and controversial aspect of a securities fraud claim"); *Kalnit v. Eichler*, 99 F. Supp. 2d 327, 345 (S.D.N.Y. 2000) (same), *aff'd*, 264 F.3d 131 (2d Cir. 2001). Here, Defendants maintained that they had no intent to deceive.

Loss causation represented an even greater risk. Defendants have argued that Plaintiffs cannot prove the corrective disclosures caused a statistically significant decline in VNET stock price. At trial, this would come down to "battle of experts." The outcome of such battles is never predictable, and there existed the very real possibility that a jury could be swayed by experts for Defendants to minimize the Class's losses or to show that the losses were attributable to factors other than the alleged misstatements and omissions. *In re Bear Stearns Companies, Inc. Sec., Derivative, & ERISA Litig.*, 909 F. Supp. 2d 259, 267-68 (S.D.N.Y. 2012) (noting that in a battle of the experts "victory is by no means assured" and the "jury could be swayed by experts for the Defendants, who [c]ould minimize the amount of Plaintiffs' losses"). Thus, even if Plaintiffs prevailed as to liability at trial, the judgment obtained could have been only a fraction of the damages sought. And, any recovery would face collection challenges as most of Defendants' assets are in the People's Republic of China. *See Trostorff v. Mynaric AG*, 800 F. Supp. 3d 486, 491 (E.D.N.Y. 2025) (award at trial would be "difficult to collect against [] defendants who reside [abroad]—particularly because the extent and location of their assets is largely unknown."); *GS Holistic, LLC v. A1 Smoke Shop of Tally Inc.*, 2023 WL 9890878, at *4 n.7 (N.D. Fla. Nov. 20, 2023) ("it is very difficult to collect judgments against China-based corporations.").

Even plaintiffs who succeed at trial may find their judgment overturned on appeal or on a post-trial motion. *See, e.g.*, *Hubbard v. BankAtlantic Bancorp, Inc.*, 688 F.3d 713, 730 (11th Cir.

2012) (affirming judgment as a matter of law on the basis of loss causation following a jury verdict partially in plaintiffs' favor); *Robbins v. Koger Properties, Inc.*, 116 F.3d 1441, 1448-49 (11th Cir. 1997) (jury verdict of $81 million for plaintiffs against an accounting firm reversed on appeal on loss causation grounds and judgment entered for defendant); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215, 1233 (10th Cir. 1996) (Tenth Circuit overturned securities fraud class action jury verdict for plaintiffs in case filed in 1973 and tried in 1988 on the basis of 1994 Supreme Court opinion).

Finally, even if Plaintiffs proceeded to trial and achieved an award higher than the Settlement, there was a substantial risk that victory would be uncertain in practical value, and the award uncollectible. Accordingly, this factor demonstrates that the requested fee is fair and reasonable.

4. The Settling Parties Were Represented by Experienced, High-Caliber Counsel

The results achieved and the quality of the services provided are important factors for courts to consider in determining reasonable attorneys' fees under a percentage-of-fund analysis. *See Goldberger*, 209 F.3d at 50; *In re Warner Commc'ns Sec. Litig.*, 618 F. Supp. 735, 745, 748-49 (S.D.N.Y. 1985). Here, despite the significant risk to recovery in this Action, Plaintiffs' Counsel successfully obtained a favorable $5.875 million cash settlement for the Class. This recovery represented 6.86% of estimated maximum recoverable damages, near the top of the range that courts generally cite when discussing the reasonableness of recovery. *See*, *e.g.*, *In re China Sunergy Sec. Litig.*, 2011 WL 1899715, at *5 (S.D.N.Y. May 13, 2011) (noting that the average settlement in securities class actions ranges from 3% to 7% of total estimated losses); *In re Merrill Lynch & Co., Inc. Rsch. Reps. Sec. Litig.*, 2007 WL 313474, at *10 (S.D.N.Y. Feb. 1, 2007) (a recovery of approximately 6.25% was "at the higher end of the range of reasonableness of recovery in class action[] securities litigations”).

The experience of counsel is relevant in determining a reasonable fee award. *See, e.g.*, *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 470 (2d Cir. 1974); *Eltman v. Grandma Lee's, Inc.*, 1986 WL 53400, at *9 (E.D.N.Y. May 28, 1986). As the firm resumes demonstrate, Pomerantz LLP and Glancy Prongay Wolke & Rotter LLP have extensive experience in the specialized field of securities litigation. *See* Tourek Decl., Exs. 4-C, 5. Plaintiffs' Counsel leveraged this experience to successfully negotiate the Settlement.

The quality of opposing counsel also matters. *See, e.g.*, *Warner Commc'ns*, 618 F. Supp. at 749. This litigation was vigorously contested by very experienced and qualified attorneys from Skadden, Arps, Slate, Meagher & Flom LLP. Tourek Decl., ¶73. “[N]otwithstanding this formidable opposition, [Plaintiffs'] Counsel were able to develop [Plaintiffs'] case so as to resolve the litigation on terms favorably to the Class.” *City of Providence*, 2014 WL 1883494, at *17; *see also In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115808, at *7 (among factors supporting the award of attorneys' fees was that defendants were represented by “one of the country's largest law firms”). The fact that Plaintiffs' Counsel achieved a superior Settlement for the Class in the face of high-quality legal opposition further evidences the quality of their efforts. *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 362 (E.D.N.Y. 2010).

The positive reaction by Class Members confirms the quality of Plaintiffs' Counsel's representation. “[N]umerous courts have noted that the lack of objection from members of the class is one of the most important factors in determining the reasonableness of a requested fee.” *In re Flag Telecom Holdings, Ltd. Sec. Litig.*, 2010 WL 4537550, at *29. Although the Notice clearly indicated Plaintiffs' Counsel would request this fee, to date no Class Member has objected. Tourek Decl., ¶¶71, 88; *see also Rodriquez v. It's Just Lunch Int'l*, 2020 WL 1030983, at *11 (S.D.N.Y.

Mar. 2, 2020) (awarding the requested 31.5% in attorneys' fees over two objections, noting that "the relatively low number of objections weighs in favor of approving the attorneys' requested fees as reasonable"). Thus, the Class reaction to date strongly supports the fee request.

5. The Requested Fee in Relation to the Settlement is Fair and Reasonable

"When determining whether a fee request is reasonable in relation to a settlement amount, the court compares the fee application to fees awarded in similar securities class-action settlements of comparable value." *In re Comverse Tech., Inc. Sec. Litig.*, 2010 WL 2653354, at *3 (E.D.N.Y. June 24, 2010); *see also Alaska Elec. Pension Fund v. Bank of Am. Corp.*, 2018 WL 6250657, at *2 (S.D.N.Y. Nov. 29, 2018). Here, Plaintiffs' Counsel's fee request of one-third (33 1/3%) of the Settlement Fund is fair, reasonable, and consistent with the range of percentages that courts in this Circuit have awarded in similar securities class action and other class action settlements of this size. *Supra* at 1-2; *see also In re N. Dynasty Mins. Ltd. Sec. Litig.*, 2024 WL 308242, at *16 (E.D.N.Y. Jan. 26, 2024) (awarding attorneys' fees equal to one-third of the $6.375 million settlement); *Gong v. Neptune Wellness Sols. Inc.*, 2023 WL 6594352, at *2 (E.D.N.Y. July 18, 2023), *report and recommendation adopted*, 2023 WL 5793557 (E.D.N.Y. Sept. 7, 2023) (awarding attorneys' fees equal to one-third of the $4.25 million settlement); *In re Facebook*, 2015 WL 6971424, at *9 (awarding 33% of $26.5 million settlement); *Solomon v. Sprint Corporation*, No. 1:19-cv-05272, ECF No. 98 (S.D.N.Y. Aug. 14, 2023) (awarding attorneys' fees equal to one-third of the $3.75 million settlement); *McIntosh v. Katapult Holdings, Inc.*, 2024 WL 5118192, at *13 (S.D.N.Y. Dec. 13, 2024) (awarding attorneys' fees equal to one-third of the $2.5 million settlement); *In re Loop Indus., Inc. Sec. Litig.*, 2023 WL 111827, at *1 (S.D.N.Y. Jan. 5, 2023) (awarding attorneys' fees equal to one-third of the $3.1 million settlement).[4]

The requested fees are also consistent with fees charged in the marketplace for equivalent services, a consideration that the Supreme Court has identified as significant. *Missouri v. Jenkins by Agyei*, 491 U.S. 274, 285 (1989). Contingent fees in non-class actions typically range from thirty percent to forty percent of the gross recovery. *Blum*, 465 U.S. at 903 ("In tort suits, an attorney might receive one third of whatever amount the plaintiff recovers. In those cases, therefore, the fee is directly proportional to the recovery.") (Brennan, J., concurring). A RAND study of federal lawsuits found that, of the cases in which contingent fees were paid, the percentage was 33% over half the time, less than 33% about a quarter of the time, and more than 33% in the remainder.[5] Here, Plaintiffs' Counsel's request is in line with awards in similar securities class action settlements, and should be granted.

6. Public Policy Considerations Favor the Fee Request

"Congress, the Executive Branch, and [the Supreme] Court … have recognized that meritorious private actions to enforce federal antifraud securities laws are an essential supplement to criminal prosecutions and civil enforcement actions brought, respectively, by the Department

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[4] *See also Silverberg v. People's Bank*, 23 F. App'x 46, 48 (2d Cir. 2001) (affirming award of attorneys' fees and expenses of nearly one-third of settlement fund); *Becher v. Long Island Lighting Co.*, 64 F. Supp. 2d 174, 182 (E.D.N.Y. 1999) (awarding one-third fee of $7.8 million, which was "well within the range accepted by courts in this circuit"); *Stefaniak v. HSBC Bank USA, N.A.*, 2008 WL 7630102, at *3 (W.D.N.Y. June 28, 2008) (awarding 33% of fund, finding it "typical in class action settlements in the Second Circuit"); *Collins v. Olin Corp.*, 2010 WL 1677764, at *6-7 (D. Conn. Apr. 21, 2010) (awarding one-third of settlement fund); *In re Med. X-Ray Film Antitrust Litig.*, 1998 WL 661515, at *7 (E.D.N.Y. Aug. 7, 1998) (awarding 33 1/3% of a settlement fund as "well within the range accepted by courts in this circuit").

[5] *See* Herbert M. Kritzer, *Seven Dogged Myths Concerning Contingency Fees*, 80 Wash. U. L.Q. 739, 760 (2002) (summarizing data reported in James S. Kakalik et al., An Evaluation of Judicial Case Management Under the Civil Justice Reform Act (1996)).

of Justice and the Securities and Exchange Commission." *Amgen Inc. v. Connecticut Ret. Plans & Tr. Funds*, 568 U.S. 455, 478 (2013) (quoting *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 313 (2007)); *see also Bateman*, 472 U.S. at 310 (emphasizing that private securities actions provide "a most effective weapon in the enforcement of the securities laws and are a necessary supplement to [SEC] action"). To effectuate the investor protection purpose of the federal securities laws, courts must encourage private lawsuits. *See Basic Inc. v. Levinson*, 485 U.S. 224, 230-31 (1988).[6]

Courts in this Circuit recognize the strong public policy in favor of attorneys' fee awards in order to encourage securities-fraud class actions. *See Hicks v. Stanley*, 2005 WL 2757792, at *9 (S.D.N.Y. Oct. 24, 2005) ("Private actions to redress real injuries further the objectives of the federal securities laws by protecting investors and consumers against fraud and other deceptive practices"); *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 359 (S.D.N.Y. 2005) ("In order to attract well-qualified plaintiffs' counsel who are able to take a case to trial, and who defendants understand are able and willing to do so, it is necessary to provide appropriate financial incentives."). Therefore, this public policy factor also favors the requested fee.

7. A Lodestar Cross-Check Confirms That the Requested Attorneys' Fees are Reasonable

This Court may also consider as a cross-check whether the requested fee would result in a disproportionate multiplier of Lead Counsel's lodestar, or the aggregate value of the time expended if billed on an hourly basis. *In re AOL Time Warner, Inc. Sec. Litig.*, 2006 WL 3057232, at *23-28 (S.D.N.Y. Oct. 25, 2006) (describing this second analysis); *In re Twinlab Corp. Sec. Litig.*, 187 F. Supp. 2d 80, 85 (E.D.N.Y. 2002). Here, a lodestar cross-check confirms the reasonableness of

[6] *See also In re Union Carbide Corp. Consumer Prods. Bus. Sec. Litig.*, 724 F. Supp. 160, 169 (S.D.N.Y. 1989); *Maley*, 186 F. Supp. 2d at 372-73; *Warner Commc'ns,* 618 F. Supp. at 750-51.

the requested fee. As set forth in the Tourek Declaration, ¶¶65-69, Plaintiffs' Counsel expended 1,266.30 hours for a total lodestar of $1,062,070.25 in litigating this Action.[7] Thus, the requested fee of 33 1/3% of the $5.875 million Settlement yields a lodestar multiplier of 1.84.

This modest multiplier, below multipliers that are common in complex litigation, is a "strong indication of the reasonableness of the [requested] fee." *In re Bear Stearns*, 909 F. Supp. 2d at 271. "In complex litigation, lodestar multipliers between 2 and 5 are commonly awarded, and fee awards resulting in multipliers as high as 6 have also been approved." *In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *16 (collecting cases); *see also Sewell v. Bovis Lend Lease, Inc.*, 2012 WL 1320124, at *13 (S.D.N.Y. Apr. 16, 2012) (in complex contingent litigation, "[c]ourts commonly award lodestar multipliers between two and six"); *Capsolas v. Pasta Res. Inc.*, 2012 WL 4760910, at *9 (approving attorneys' fees equal to one-third of the $5.25 million settlement with a lodestar multiplier of 3.96); *In re N. Dynasty Mins. Ltd. Sec. Litig.*, 2024 WL 308242, at *15 (E.D.N.Y. Jan. 26, 2024) (approving attorneys' fees equal to one-third of the $6.375 million settlement with a lodestar multiplier of 2.35); *In re Barclays PLC Sec. Litig.*, 2025 WL 842939, at *1 (S.D.N.Y. Mar. 18, 2025) (awarding fees with a lodestar multiplier of 3.18); *In re Luckin Coffee Inc. Sec. Litig.*, 2022 WL 22853339, at *2 (S.D.N.Y. July 22, 2022) (awarding fees with a lodestar multiplier of 4.6); *In re BRF S.A. Sec. Litig.*, 2020 WL 10618214, at *1 (S.D.N.Y.

[7] These lodestar figures are based on hourly records created and maintained in the records of Pomerantz LLP and Glancy Prongay Wolke & Rotter LLP in the ordinary course of business, and do not include any time related to the preparation of this fee request. To arrive at the lodestar, the hours expended were multiplied by each attorney's respective hourly rate. *See Savoie v. Merchants Bank*, 166 F.3d 456, 460-61 (2d Cir. 1999). It is well-settled that the use of an attorney's current rate in place at the time of the fee application is proper, since such rates compensate for inflation, the loss of use of funds, and the delay in receiving payment. *See, e.g.*, *Fleisher v. Phoenix Life Ins. Co.*, 2015 WL 10847814, at *18 (S.D.N.Y. Sept. 9, 2015); *Gierlinger v. Gleason*, 160 F.3d 858, 882 (2d Cir. 1998); *LeBlanc-Sternberg v. Fletcher*, 143 F.3d 748, 764 (2d Cir. 1998); *Jenkins*, 491 U.S. at 283-84.

Oct. 23, 2020) (awarding $10 million in fees with a lodestar multiplier of 5.57 as calculated from the lodestar of $1,794,898.00 plus interest, from the fee brief at ECF No. 166 at 9).

D. Plaintiffs' Counsel Should Be Reimbursed for its Litigation Expenses

Plaintiffs' Counsel requests that the Court grant reimbursement of $56,647.20 in litigation expenses incurred in the prosecution of this Action, together with interest on that amount accrued while it was in escrow. Tourek Decl., ¶¶80-88. "The expenses incurred—which include investigative and expert witnesses, filing fees, service of process, travel, legal research and document production and review—are the type for which 'the paying, arms' length market' reimburses attorneys" and thus "they are properly chargeable to the Settlement fund." *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 468 (S.D.N.Y. 2004). Indeed, courts routinely hold that counsel is entitled to reimbursement from the common fund for reasonable litigation expenses that would have been reimbursed by an hourly-billed client. *Reichman v. Bonsignore, Brignati & Mazzotta P.C.*, 818 F.2d 278, 283 (2d Cir. 1987); *MetLife*, 689 F. Supp. 2d at 363-64; *In re EVCI Career Colleges Holding Corp. Sec. Litig.*, 2007 WL 2230177, at *18 (S.D.N.Y. July 27, 2007).

The litigation expenses here were all necessary for the prosecution of this Action and are of the type traditionally billed to fee-paying clients. A large majority of the expenses were for experts, private investigators, and mediation—expenses that were essential to the successful result of the Action and that other courts have found to be "reasonably expended and should be reimbursed." *In re PPDAI Grp. Inc. Sec. Litig.*, 2022 WL 198491, at *17 (approving reimbursement of the plaintiff counsel's expenses, a majority of which were "for outside investigators, financial consultants, and the mediator"). Other out-of-pocket expenses were also reasonable, of the type traditionally billed, and should be reimbursed. *See Burns v. FalconStor Software, Inc.*, 2014 WL 12917621, at *11 (E.D.N.Y. Apr. 11, 2014) (approving the reimbursement of expenses for "online legal research, copying costs, postage, court filing fees, … private investigator, and mediation fees."). Moreover, the Notice indicated that Lead Counsel would seek reimbursement of up to $100,000 in litigation expenses and no objection has been received. *See* ECF No. 66-3, Tourek Decl., ¶88. The lack of objections underscores that the lesser amount requested here is reasonable and should be reimbursed. Bravata Decl., ¶¶13-14; *Rodriquez*, 2020 WL 1030983, at *11. Thus, the reimbursement of Plaintiffs' Counsel's expenses is warranted.

E. The Proposed Compensatory Awards to Lead Plaintiff and Additional Named Plaintiff are Reasonable

The PSLRA expressly permits Plaintiffs to seek an "award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class[]." 15 U.S.C. §78u-4(a)(4). "Courts in this Circuit routinely award such costs and expenses both to reimburse the named plaintiffs for expenses incurred through their involvement with the action and lost wages, as well as to provide an incentive for such plaintiffs to remain involved in the litigation and to incur such expenses in the first place." *In re Giant Interactive Grp., Inc. Sec. Litig.*, 279 F.R.D. 151, 165 (S.D.N.Y. 2011); *see also Guevoura*, 2019 WL 6889901, at *22. Compensatory awards are allowed because they "encourage[] participation of plaintiffs in the active supervision of their counsel." *Varljen v. H.J. Meyers & Co., Inc.*, 2000 WL 1683656, at *5 n.2 (S.D.N.Y. Nov. 8, 2000); *see also Moses v. New York Times Co.*, 79 F.4th 235, 245 (2d Cir. 2023) (noting that class representatives "play an active role in the litigation—often providing the background information that forms the basis of the lawsuit, engaging in fact discovery, and devoting considerable time and effort into the settlement process[.]"). In accordance with the PSLRA and the inherent powers of the Court, courts routinely grant reimbursement of substantial sums to lead plaintiffs and class representatives. *See In re N. Dynasty Mins. Ltd. Sec. Litig.*, 2024 WL 308242, at *17 (awarding

$20,000 to lead plaintiff as "in line with or . . . more modest than others that have been awarded"); *In re XL Fleet Corp. Sec. Litig.*, 2024 WL 1884483, at *2 (S.D.N.Y. Apr. 30, 2024) (granting lead plaintiff $25,000 and four additional named plaintiffs $15,000 each); *Martinek v. Amtrust Fin. Servs., Inc.*, 2022 WL 16960903, at *3 (S.D.N.Y. Nov. 16, 2022) (awarding $15,000); *In re Qudian Sec. Litig.*, 2021 WL 2328437, at *2 (S.D.N.Y. June 8, 2021) (awarding lead plaintiff $25,000 and another class representative $12,500 from $8.5 million settlement fund); *Lea v. Tal Educ. Grp.*, 2021 WL 5578665, at *13 (S.D.N.Y. Nov. 30, 2021) (awarding $7,500); *Kindle v. Dejana*, 308 F. Supp. 3d 698, 718 (E.D.N.Y. 2018) (collecting cases) (awarding $10,000); *In re Flag Telecom Holdings, Ltd. Sec. Litig.*, 2010 WL 4537550 at *31 (approving award of $100,000 to lead plaintiff); *In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115808, at *12 (awarding lead plaintiff approximately $15,900 of $5.5 million settlement for time spent supervising litigation, and characterizing such awards as "routine[]" in this Circuit); *Hicks*, 2005 WL 2757792, at *10-11 (collecting cases) (awarding $7,500).

Here, Lead Plaintiff Wong Tan and Additional Plaintiff Michael Semerak at all times zealously represented the Class. Among other things, they (1) analyzed whether to participate as a representative plaintiff by reviewing the initiating documents and consulting with Plaintiffs' Counsel regarding the responsibilities of serving as a representative plaintiff; (2) reviewed and discussed with Plaintiffs' Counsel the lead plaintiff moving papers; (3) gathered case-related documents as requested by Counsel; (4) reviewed and discussed with Plaintiffs' Counsel an amended complaint, including discussing the strategy to add claims in the amended complaint; (5) reviewed and discussed the motion to dismiss filed by Defendants and the response in opposition to the motion to dismiss filed by Plaintiffs' Counsel; (6) participated in the discovery process, including by working with Plaintiffs' Counsel to respond to Defendants' document requests and interrogatories; (7) discussed settlement authority, settlement negotiations, and the Settlement with Plaintiffs' Counsel; (8) discussed the motions for preliminary approval and final approval with Plaintiffs' Counsel; and (9) consulted with Plaintiffs' Counsel regarding the anticipated relief to be sought in: (a) Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and (b) Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Compensatory Award for Plaintiffs. *See* Tourek Decl., ¶89; Wong Decl., ¶¶1-3; Semerak Decl., ¶¶1-3. These are "precisely the types of activities that support awarding reimbursement of expenses to class representatives[.]" *In re Marsh & McLennan Cos., Inc. Sec. Litig.*, 2009 WL 5178546, at *21 (S.D.N.Y. Dec. 23, 2009). Further, the compensatory awards of $15,000 for Wong Tan and $10,000 for Michael Semerak for more than fifty (50) and thirty (30) hours each Plaintiff expended in this Action, respectively, is not only in line with, but less than, the compensation they generate in their respective professions. *See* Wong Decl., ¶4; Semerak Decl., ¶4; Tourek Decl., ¶89.

Plaintiffs and Plaintiffs' Counsel submit that the requested awards of $15,000 to Lead Plaintiff Tan and $10,000 to additional named Plaintiff Semerak, to compensate for their time and service to the Class are reasonable and should be granted.

III. CONCLUSION

Plaintiffs' Counsel's efforts have produced a favorable result for the Class under the circumstances. Therefore, they respectfully request that the Court (1) award attorneys' fees in the amount of 33 1/3% of the gross Settlement fund, plus accrued interest; (2) reimbursement of expenses to Plaintiffs' Counsel in the amount of $56,647.20, plus accrued interest; and (3) grant a compensatory award of $15,000 to Lead Plaintiff Wong Tan and a compensatory award of $10,000 to additional named Plaintiff Michael Semerak.

Dated: July 23, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

On July 23, 2026, the foregoing document was filed through the Court's ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Christopher P.T. Tourek
Christopher P.T. Tourek