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September 17, 2009

BY HAND

The Honorable Shira A. Scheindlin
United States District Judge
United States District Court
for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street – Room 1620
New York, New York 10007

Re: *In re Initial Public Offering Sec. Litig.*, 21 MC 92 (SAS)

Dear Judge Scheindlin:

I write on behalf of Plaintiffs' Executive Committee in response to the Supplemental Objections to the Proposed Class Action Settlement submitted on September 8, 2009 by Edward F. Siegel, Esq. on behalf of several class members.

Siegel repeats his objection, stated in his earlier submission, to plaintiff counsel's requested fee award and expense reimbursement. As for the fee, his argument is simply that there can never be a 33⅓% award in a mega-fund case. Siegel does not acknowledge that this is not a "mega-fund" case in the sense that, for example, the cases related to Enron or WorldCom were mega-fund cases. As we explained in our moving brief, this is a coordinated proceeding of 309 separate cases, and the largest designation of the settlement fund to any one case is about \$20 million. *See* Mem. of Law in Support of Plaintiffs Executive Committee's Application for an Award of Attorneys' Fees (Aug. 25, 2009) at 14 *et seq.* Compared to similarly sized settlements, the request for 33⅓% is reasonable, especially in light of the lodestar crosscheck against the multiplier. *Id.* We respectfully submit that Siegel's objection to the fee award should be overruled.¹

¹ It is somewhat ironic that Siegel objects to Plaintiffs' counsel fee request in these cases, which, after nearly nine years of complex, hard-nosed, risky litigation, amounts to at best

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Siegel's scattershot objection to the request for expense reimbursement is not persuasive either. Most firms charged \$0.10 per copy, covering the vast majority of copies made. That said, reimbursement for copying costs of as much as \$0.25 per copy is not uncommon. *E.g.*, *Dang v. Cross*, No. CV 00-13001, 2003 WL 21530137, at *7 (C.D. Cal. 2003), *vacated on other grounds by Dang v. Cross*, 422 F.3d 800 (9th Cir. 2005); *Churchill v. Star Enterprises*, 1998 WL 254080, *10 (E.D. Pa. April 17, 1998).

Siegel maintains that his "most important" question is whether class counsel is attempting to collect twice for contributions to the Litigation Fund. In other words, he speculates that class counsel may be seeking reimbursement for both the contributions to the fund and the expenses of the fund. The speculation is unfounded. We have attached as exhibit A to this letter a chart that itemizes counsel's expenses (exclusive of litigation fund contributions) and litigation fund expenses. The total, as requested, is \$50,354,709.63.

Siegel also argues that the Court should disallow reimbursement for on-line legal research expenses, which he says total \$5,275,000. Siegel evidently is referring to the "Computer & Other Research Fee(s)" which total \$3,950,007.81. Siegel's assertion that legal research expenses are not compensable because they amount to "overhead" is not supported by any binding authority, and in fact, the Second Circuit has held that such expenses may be compensable when fees are awarded. *See, e.g.*, *Arbor Hill Concerned Citizens Neighborhood Ass'n v. County of Albany*, 369 F.3d 91, 98 (2d Cir. 2004)(reasoning that charges for computerized research services should be allowed as part of the fee award because such services presumably save money by making legal research more efficient); *Evergreen Pipeline Construction Co. v. Merritt Meridian Construction Corp.*, 95 F.3d 153, 173 (2d Cir. 1996)(same). Moreover, most of the litigation fund expenses for this category are not for legal research, per se, but rather are related to electronic discovery management and storage (e.g., format conversion, metadata scrubbing, and document review).

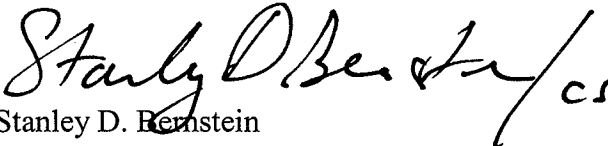
True, in some circumstances counsel who travel for long distances or frequently for business may have flown business or first-class. The instances were limited, however, and in the exercise of each lawyer's business judgment.

a 0.7 multiplier of lodestar, when he himself just sought multiplier of 2.5 for an objection to the fee request he lodged in *In re United Health Group, Inc. PSLRA Litig.*, 2009 WL 2868399 (D. Minn. Sep. 4, 2009). Characterizing Siegel and his ilk of professional objectors as "remoras," Judge Rosenbaum "emphatically denied" the request because the objection "conferred no benefit whatsoever on the class or on the Court." *Id.*

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We respectfully submit that Siegel's objection should be rejected.

Respectfully submitted,


Stanley D. Bernstein

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Enclosure

Exhibit A

In re Initial Public Offering Securities Litigation
Civil Action No. 21 MC 92 (SAS)

TOTAL EXPENSES BY CATEGORY FOR ALL EXECUTIVE AND NON-EXECUTIVE
COMMITTEE FIRMS AND PLAINTIFFS' LITIGATION FUND

Description	Amount
Executive Committee Expenses (Exclusive of Contributions to Plaintiffs' Litigation Fund)	
Commercial Copies	\$ 2,066,277.21
Computer & Other Research Fee(s)	\$ 1,833,932.82
Copies/Printing*	\$ 25,000.00
Counsel Press - Printing/Binding	\$ 4,041.17
Courier & Overnight Delivery Services	\$ 756,008.53
Court Fee(s)	\$ 226,585.92
Disclosure & Document Retrieval	\$ 23,584.26
Expert and Investigative Fee(s)	\$ 20,618,263.16
External Box Storage*	\$ 12,533.80
Internal Box Storage*	\$ 19,950.00
Legal Research*	\$ 15,000.00
Lextranet*	\$ 12,000.00
Mediation Fees	\$ 2,465.35
Messengers/Postage*	\$ 5,000.00
Office Supplies	\$ 21,928.37
Other (Including Document Retrieval, Translators, Database Analysis, Publications & Temporary Services)	\$ 34,997.27
Postage	\$ 394,013.35
Publication	\$ 4,561.58
Reimbursement - Rediff Expenses	\$ (40,411.15)
Rent & Utilities	\$ 19,320.00
Reproduction	\$ 771,581.84
Secretarial/Support Staff Overtime	\$ 628,099.68
Service	\$ 378,912.21
Shareholder Communications	\$ 1,454,649.58
Storage Costs	\$ 1,131.41
Telephone/Fax	\$ 163,532.63
Transcripts	\$ 513,231.89
Travel Expenses (including hotels, meals & transportation)	\$ 2,344,250.07
Witness Fees	\$ 12,326.63
Subtotal:	\$ 32,322,767.58
* Estimated Anticipated Expense Through April 2011	

In re Initial Public Offering Securities Litigation
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TOTAL EXPENSES BY CATEGORY FOR ALL EXECUTIVE AND NON-EXECUTIVE
COMMITTEE FIRMS AND PLAINTIFFS' LITIGATION FUND

Non-Executive Committee Expenses (Exclusive of Contributions to Plaintiffs' Litigation Fund)	
Commercial Copies	\$ 62,485.14
Computer & Other Research Fee(s)	\$ 278,846.29
Courier & Overnight Delivery Services	\$ 36,032.91
Court Fee(s)	\$ 38,614.57
Expert and Investigative Fee(s)	\$ 7,070.50
Postage	\$ 63,318.48
Reproduction	\$ 160,235.30
Service	\$ 7,530.55
Shareholder Communications	\$ 98,349.03
Telephone/Fax	\$ 61,055.38
Transcripts	\$ 3,858.00
Travel Expenses (including hotels, meals & transportation)	\$ 3,040,226.98
Subtotal:	\$ 3,857,623.13
Litigation Fund Expenses	
Bank Charges	\$ 62.00
Commercial Copies	\$ 2,184,702.92
Computer & Other Research Fees	\$ 1,837,228.70
Computer Equipment	\$ 122,000.75
Copier Rental	\$ 199,252.62
Courier/Overnight Delivery Services	\$ 761,028.98
Court Fees	\$ 34,614.19
Court Reporting	\$ 187,891.63
Document Depository Rent & Other Costs	\$ 2,399,130.22
Document Shredding	\$ 26,263.46
Experts, Consultants & Investigative Fees	\$ 3,369,237.20
Insurance	\$ 20,338.19
IT Equipment	\$ 81,092.93
IT Technical Help	\$ 19,858.00
Litigation Fund Earned Interest	\$ (34,769.25)
Postage	\$ 520.03
Relocation Expenses (Document Depository)	\$ 5,508.34
Service Of Process	\$ 606,812.84
Shareholder Notice	\$ 11,212.83

In re Initial Public Offering Securities Litigation
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TOTAL EXPENSES BY CATEGORY FOR ALL EXECUTIVE AND NON-EXECUTIVE
COMMITTEE FIRMS AND PLAINTIFFS' LITIGATION FUND

Special Master/Mediators	\$ 453,011.75
Storage	\$ 53,115.99
Supplies	\$ 358,577.17
Taxes (On Litigation Fund Earned Interest)	\$ 9,386.26
Telephone/Fax	\$ 243,953.84
Telephony Hardwire Expenses (Document Depository)	\$ 72,785.48
Temporary Personnel	\$ 981,951.09
Transcripts	\$ 8,134.54
Travel Expenses (Including Hotels, Meals & Transportation)	\$ 150,875.09
Trustee Fee	\$ 3,720.00
Video Services	\$ 5,820.53
Witness Fees	\$ 1,000.00
Subtotal:	\$ 14,174,318.32
GRAND TOTAL OF ALL EXPENSES	\$ 50,354,709.03