

Berger & Montague, P.C.

ATTORNEYS AT LAW

WRITER'S DIRECT DIAL | 215-875-4687
WRITER'S DIRECT FAX | 215-875-4604
WRITER'S DIRECT E-MAIL | jkabacinski@bm.net

February 20, 2009

VIA FIRST CLASS MAIL

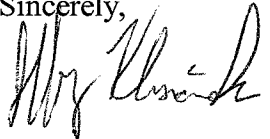
Mr. Edward Hasbrouck
1130 Treat Avenue
San Francisco, CA 94110

Re: *In re Currency Conversion Fee Antitrust Litigation,*
MDL No. 1409, Master File No. M 21-95 (S.D.N.Y.)

Dear Mr. Hasbrouck:

Please find enclosed a courtesy copy of the following documents that plaintiffs are filing with the court by overnight mail today: (i) cover letters to the Clerk of Court and Judge Pauley; (ii) Plaintiffs' Co-Lead Counsel and Claims Administrator Report Regarding the Cost of Settlement Notice and Administrative Costs and Motion for Approval of Settlement Notice and Administration Costs in Excess of \$100,000 to a Single Vendor for the Fourth Quarter 2008; (iii) the Affidavit of Ronald A. Bertino; (iv) a [Proposed] Order; and (v) a Certificate of Service.

Sincerely,



Jeffrey Kabacinski
Assistant to David A. Langer

/jk
enclosures

Berger & Montague, P.C.

ATTORNEYS AT LAW

WRITER'S DIRECT DIAL | 215-875-4644
WRITER'S DIRECT FAX | 215-875-4604
WRITER'S DIRECT E-MAIL | dlanger@bm.net

February 20, 2009

BY OVERNIGHT MAIL

J. Michael McMahon
Clerk of the District Court
United States District Court
for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: ***In re Currency Conversion Fee Antitrust Litigation***
Master File No. M 21-95; MDL No. 1409

Dear Mr. McMahon:

Please find enclosed for filing in the above-captioned action the original and one copy of Plaintiffs' Co-Lead Counsel and Claims Administrator Report Regarding the Cost of Settlement Notice and Administrative Costs and Motion for Approval of Settlement Notice and Administration Costs in Excess of \$100,000 to a Single Vendor for the Fourth Quarter 2008; the Affidavit of Ronald A. Bertino, CPA; a [Proposed] Order; and a Certificate of Service. Kindly file the originals and please return the copies with a time stamp to this office using the enclosed self-addressed, pre-paid envelope. Courtesy copies of these documents have been sent under separate cover to Judge Pauley's chambers.

Respectfully submitted,



David A. Langer

DAL/jk
enclosures

Berger&Montague,P.C.
ATTORNEYS AT LAW

WRITER'S DIRECT DIAL | 215-875-4644
WRITER'S DIRECT FAX | 215-875-4604
WRITER'S DIRECT E-MAIL | dlanger@bm.net

February 20, 2009

BY OVERNIGHT MAIL

The Honorable William H. Pauley, III
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 2210
New York, NY 10007-1312

Re: ***In re Currency Conversion Fee Antitrust Litigation***
Master File No. M 21-95; MDL No. 1409

Dear Judge Pauley:

Enclosed please find two courtesy copies of Plaintiffs' Co-Lead Counsel and Claims Administrator Report Regarding the Cost of Settlement Notice and Administrative Costs and Motion for Approval of Settlement Notice and Administration Costs in Excess of \$100,000 to a Single Vendor for the Fourth Quarter 2008; the Affidavit of Ronald A. Bertino, CPA; a [Proposed] Order; and a Certificate of Service.

Plaintiffs respectfully request a disbursement from the Principal Settlement Fund, maintained with the Court Registry Investment System ("CRIS") as account number 07-cc-0001-1, to pay notice and claims administration costs owed to the Claims Administrator and Analysis Research Planning Corporation. The amounts owed are: (i) \$816,160.92 to the Claims Administrator (for October through December 2008 fees); (ii) the Special Master (\$39,552.09, for fees and expenses from June through December 2008); and (iii) ARPC (\$59,570.62, for fees and expenses from August through December 2008).

Plaintiffs' Co-Lead Counsel respectfully request that the Clerk of the Court be directed to draw checks in these amounts and to these payees from the CRIS Principal Settlement Fund, account no. 07-cc-0001-1. The Clerk of Court should send the checks by overnight mail, no later than Monday, March 9, 2008, to Co-Lead Counsel Berger & Montague, P.C., c/o Merrill G. Davidoff, Esquire, 1622 Locust Street, Philadelphia, PA 19103, for disbursement to these payees.

Respectfully submitted,



David A. Langer

DAL/jk
enclosures

Pursuant to the Stipulation and Agreement of Settlement (“Settlement Agreement”) and this Court’s Order dated November 8, 2006, Plaintiffs’ Co-Lead Counsel and the Claims Administrator¹ submit the following report and motion for approval of settlement and administration costs to the Court. *See* Order at ¶ 11 and Settlement Agreement at ¶ 12(b). This report contains information on income and expenses attributed to the two Settlement funds described below for the Fourth Quarter of 2008, ending December 31, 2008. Also included is a request for approval of the payment of costs to the Claims Administrator, the Special Master² and Analysis Research Planning Corporation,³ as required by the November 8, 2006 Order and the Court’s October 22, 2007 Amended Order.

By way of background, on July 24, 2006, Plaintiffs’ Co-Lead Counsel established two separate settlement accounts. One, the Principal Settlement Fund, was established with an initial balance of \$318,000,000.00. The other, a Notice and Cost Administration Fund, was established with an initial balance of \$18,000,000.00. The Notice and Cost Administration Fund was established to pay for the costs, administrative fees and expenses associated with: the preparation, handling, mailing, printing, publication and any other aspects of the dissemination of the notice of pendency and settlement of class action, the publication notice, or the claim form according to the terms and conditions of the Class and Settlement Notice Plan; the maintenance of the foreign transaction litigation escrow account; and all aspects of claims administration

¹ Pursuant to this Court’s Order dated November 8, 2006, the Court appointed Heffler, Radetich & Saitta, L.L.P. (“HR&S”) as Claims Administrator.

² On June 8, 2007, the Court appointed Professor Francis E. McGovern as a Special Master to assist the parties with reviewing and revising the settlement notice and claims procedures.

³ On August 30, 2007, the Court appointed B. Thomas Florence and Analysis Research Planning Corp. (collectively “ARPC”) as experts to the Special Master to assist the Special Master with his evaluation of the terms of the notice and claims procedure, and the development of the algorithm.

including, without limitation, the costs, fees and expenses incurred and charged by the Claims Administrator in connection with this settlement according to the terms and conditions of the Revised Plan of Administration and Distribution. *See* Settlement Agreement ¶ 12(b).

Pursuant to the Court's October 22, 2007 Amended Order, the two funds have been deposited into two separate interest-bearing accounts with the Court Registry Investment System ("CRIS"). The CRIS accounts were established on October 23, 2007 when Co-Lead Counsel caused the two funds to be wired to the Clerk of the Court for the Southern District of New York. At that time, the balance of the Principal Settlement Fund account was \$334,733,965.87 and the balance of the Notice and Cost Administration Fund account was \$13,425,584.57.

Settlement Funds Balance. The CRIS account statements report that the combined balance of the two funds as of December 31, 2008 was \$338,127,744.03. Affidavit of Ronald A. Bertino, CPA Regarding the Costs of Administration Through December 31, 2008 ("Bertino Affidavit") ¶3 and Exhibit A ("Cash & Investments as of December 31, 2008").⁴ For the Fourth Quarter 2008, the balance of the CRIS Principal Settlement Fund (account number 07-cc-0001-1) was \$337,418,386.28 and the balance of the CRIS Notice and Cost Administration Fund (account number 07-cc-0001-2) was \$708,700.66. *See* Bertino Affidavit ¶3 and Exhibit A ("Cash & Investments as of December 31, 2008").

In addition, the settlement funds received two federal tax refunds: (i) a refund of \$1,826,225 for federal taxes paid for the year 2007 received on March 14, 2008; and (ii) a refund of \$1,136,610 for federal taxes paid for the year 2006 received on April 17, 2008. *See* Bertino Affidavit ¶4 and Exhibit C. These funds were placed into an investment account at Citizens Bank (U.S. Treasury-backed money market funds) to accrue interest pending the Court's

⁴ For reference to the Bertino Affidavit, the Principal Settlement Fund is account number 2518, and the Notice and Cost Administration Fund is account number 2526.

authorization to wire the funds to the CRIS Principal Settlement Fund. Pursuant to this Court's Order of June 27, 2008, the tax refund monies held at Citizens Bank have been disbursed to pay Court-approved expenses, and the remaining funds (\$2,017,432.25) were transferred to the CRIS Principal Settlement Fund on July 8, 2008.

Net Settlement Fund Income. The funds have earned and received a total of \$28,436,929.21 in interest income from the inception of the funds to the end of the Fourth Quarter, December 31, 2008. Bertino Affidavit ¶4 and Exhibit A ("Income – 07/24/06 to 12/31/08"). The funds also have an interest receivable amount at December 31, 2008 of \$229.75 (*i.e.*, interest earned on investments that have not matured as of December 31, 2008). Bertino Affidavit ¶4 and Exhibit A ("Income/Refunds Receivable").

Total Expenses for the Fourth Quarter 2008. The total expenses incurred by the funds in the Fourth Quarter 2008 amount to \$915,283.63. Bertino Affidavit ¶5 and Exhibit B (Note X). This amount includes the fees and expenses billed by the Claims Administrator (for October through December 2008), the Special Master (for June 2008 through December 2008) and ARPC (for August 2008 through December 2008). *See* Bertino Affidavit Exhibit D (enclosing invoices for these expenses).

No estimated tax payments were made in the Fourth Quarter. Bertino Affidavit ¶5. The total estimated tax payments from inception (July 24, 2006) through the Fourth Quarter (December 31, 2008) are \$4,488,000. Bertino Affidavit Exhibit C. Accounting for the 2007 tax refund of \$1,826,225 and the 2006 tax refund of \$1,136,610, the net taxes paid from inception through the Fourth Quarter 2008 are \$1,525,165. *See supra.*

Request for Approval of Payment of Outstanding Expenses. Paragraph 3(f) of the Settlement Agreement sets out the guidelines for payments from the Settlement Fund.⁵ As required by Paragraph 3(f) and the Court's October 22, 2007 Amended Order, Court approval is required to be paid for notice and claim administration services provided by: (i) the Claims Administrator (\$816,160.92 for October through December 2008); (ii) the Special Master (\$39,552.09, for June through December 2008); and (iii) ARPC (\$59,570.62, for August through December 2008).

Claims Administrator. The Claims Administrator's invoices for October 2008 (\$319,268.00), November 2008 (\$236,507.32) and December 2008 (\$260,385.60), dated December 22, 2008, December 29, 2008 and January 14, 2009, respectively, are attached at Exhibit D to the Bertino Affidavit. These invoices detail the services provided by the Claims Administrator to administer the Revised Class and Settlement Notice Plan and the Revised Plan of Administration and Distribution.

The Claims Administrator's services are billed on either a per item basis or an hourly basis. Services billed on an hourly basis for October through December 2008 concern the development and implementation of the audit program. Hourly services in connection with the audit program include: selecting claims for audit based on various factors; developing, implementing and revising the audit program on an ongoing basis based, in part, on the results of completed audits; corresponding with audited class members; gathering information in response

⁵ Paragraph 3(f) of the Settlement Agreement reads, in its entirety: "No distribution or payment from the Gross Settlement Fund or the Net Settlement Fund shall be made without the express prior approval of the Court for any purpose other than (i) Tax Payments, (ii) costs for Publication Notice, notice printing costs or notice postage costs, or (iii) payment of Settlement Notice and Administration Costs in amounts of less than \$100,000 to a single vendor."

to audits; analyzing the audit data and information, and determining whether all or a portion of a claim is valid; and logging and summarizing results of all completed audits on a daily basis.

Services billed on a per item basis for October through December 2008 include: setting up, maintaining, monitoring and updating the website (www.ccfsettlement.com) and the automated "800" telephone service (the "IVR" system), which includes revising and updating the information and/or documents available to Class Members at the request of counsel for the parties; the collection and sorting of mail and claim forms from Class Members; responding to telephone, mail and email inquiries from Class Members; providing documentation (claim forms, settlement agreements, opt-out forms, etc.) to Class Members; reviewing and preparing quarterly reports for the two CRIS settlement funds; preparing the Agency/Company claim submission procedures and assisting Agency/Company Class Members with their claims; and participating in meetings and conference calls with counsel for plaintiffs and defendants to address settlement administration issues.

Payment for these costs to the Claims Administrator is authorized by Paragraph 12(b) of the Settlement Agreement. Accordingly, Plaintiffs' Co-Lead Counsel respectfully request that the Court approve the payment of \$816,160.92 (\$319,268.00 for October 2008, \$236,507.32 for November 2008, and \$260,385.60 for December 2008) to the Claims Administrator.

Special Master. Pursuant to the Court's June 8, 2007 Order, the Special Master, Professor Francis E. McGovern, shall be paid from the Settlement Fund. The Special Master has submitted invoices, which are attached at Exhibit D to the Bertino Affidavit, for his fees and expenses for June through December 2008. The total fees and expenses for this period are \$39,552.09.

Accordingly, Plaintiffs' Co-Lead Counsel respectfully request that the Court approve a payment of \$39,552.09 to Francis E. McGovern, Special Master.

ARPC. ARPC has submitted five invoices for August 2008 through December 2008, which are attached at Exhibit D to the Bertino Affidavit, for services pertaining to the notice and claims procedures, and for developing the algorithm for Option 2 claims. With respect to the algorithm, ARPC compiled and analyzed data, conducted testing, prepared reports, attended meetings and conference calls with counsel, as well as attending hearings before the Court, and it is developing an algorithm methodology.

The total for ARPC's fees and expenses for August 2008 through December 2008 are \$59,570.62. Of this amount, \$59,556.50 is for work billed at ARPC's normal hourly rates and \$14.12 is for expenses.

Payment for these costs to ARPC is authorized by Paragraph 12(b) of the Settlement Agreement and the Court's August 30, 2007 Order.⁶ Accordingly, Plaintiffs' Co-Lead Counsel respectfully request that the Court approve the payment of \$59,570.62 to ARPC.

Summary of Outstanding Expenses. Co-Lead Counsel respectfully request that the Court authorize payments from the Principal Settlement Fund, maintained in a CRIS account (designated as account number 07-cc-0001-1), for costs to the Claims Administrator, the Special Master and ARPC. The Clerk of the Court should be directed to draw checks to these payees in the amounts indicated below and to send the checks by overnight mail, no later than Monday,

⁶ At the time the Court appointed ARPC as an expert to the Special Master, the parties had contemplated that ARPC would provide advice and some assistance with developing the algorithm, and, as a result, the August 30 Order limits ARPC's compensation to \$60,000. However, ARPC now has primary responsibility for developing the algorithm, and the work required for it to reasonably complete its analysis of data and to develop the algorithm has exceeded that threshold amount. ARPC will continue its work until the algorithm is finalized. Co-Lead Counsel, therefore, respectfully request that the Court grant payments to ARPC in excess of \$60,000 for work done in connection with the algorithm.

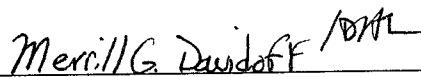
March 9, 2009, to Co-Lead Counsel Berger & Montague, P.C., c/o Merrill G. Davidoff, Esq., 1622 Locust Street, Philadelphia, PA 19103, for distribution to the payees. The disbursements from the CRIS Principal Settlement Fund should be made for the following amounts and payees:

- (i) the amount of \$816,160.92 paid to Heffler Radetich & Saitta, LLP (Claims Administrator);
- (ii) the amount of \$39,552.09 paid to Francis E. McGovern (Special Master); and
- (ii) the amount of \$59,570.62 paid to Analysis Research Planning Corporation.

Respectfully submitted,

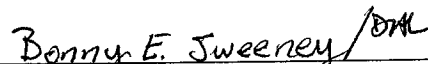
DATED: February 20, 2009

BERGER & MONTAGUE, P.C.
MERRILL G. DAVIDOFF
RUTHANNE GORDON
DAVID A. LANGER


MERRILL G. DAVIDOFF

1622 Locust Street
Philadelphia, PA 19103
Telephone: 215/875-3000
215/875-4604 (fax)

COUGHLIN STOIA GELLER RUDMAN &
ROBBINS LLP
BONNY E. SWEENEY


BONNY E. SWEENEY

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

Co-Lead Counsel for Plaintiffs

