

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BEACON ASSOCIATES LLC I, BEACON  
ASSOCIATES LLC II, ANDOVER  
ASSOCIATES LLC I, ANDOVER  
ASSOCIATES (q) LLC,

*Plaintiffs,*

vs.

BEACON ASSOCIATES MANAGEMENT  
CORP., ANDOVER ASSOCIATES  
MANAGEMENT CORP., INCOME PLUS  
INVESTMENT FUND, DAVID  
FASTENBERG, TRUSTEE, LONG ISLAND  
VITREO-RETINAL CONSULTANTS 401K  
FBO DAVID FASTENBERG, ET AL.,

*Defendants.*

Civil Action No. 1:14-cv-02294 (AJP)

**SECOND DECLARATION OF RACHEL J. PRESA**

I, RACHEL J. PRESA, hereby declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury:

1. I am an attorney at Akin Gump Strauss Hauer & Feld LLP, counsel to AIJED International, Ltd (“AIJED”). I make this declaration in support of AIJED’s Motion for Stay of Enforcement and Preliminary Injunction Pending Appeal.

2. This declaration is based upon my own personal knowledge and belief, and upon my review of documents and information made available to me through AIJED, Beacon and other parties involved in this dispute.<sup>1</sup>

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Memorandum of Law in Support of AIJED International Ltd.’s Motion for a Stay of Enforcement of April Order Pending Appeal and in AIJED’s previous briefing in this matter (ECF Nos. 74-76, 85-87).

3. On April 10, 2015, AIJED's counsel notified counsel for Beacon and counsel for the Challenging Investors that it intended to appeal the April Order, and on April 14, 2015, AIJED filed its Notice of Appeal (ECF No. 92).

4. During a conference call on April 15, 2015, Beacon's counsel informed AIJED's counsel and counsel for the Challenging Investors that certain other Holdback Investors have informed Beacon's counsel that they are considering appealing the April Order.

5. During the same conference call, Beacon agreed temporarily not to distribute the AIJED Holdback or any part of it until the Court can hear and decide AIJED's Motion for Stay. We understand that if the April Order is not stayed, Beacon will proceed to distribute the AIJED Holdback ratably among its other investors who, upon information and belief, number in the hundreds.

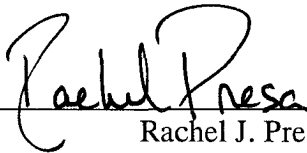
6. If Beacon's counsel distributes the AIJED Holdback to its investors before AIJED's appeal is decided, AIJED could not recover those funds as a practical matter. Among other things, the Court has indicated it is unlikely to entertain attempts to claw back sums once they are distributed to investors by Beacon, and claw back litigation would potentially involve hundreds of defendants and be highly burdensome and expensive in any case.

7. In conversations during the course of the instant litigation, Beacon's counsel has represented that, other than the Holdback Amount and funds reserved to pay for the costs of Beacon's continuing operations, Beacon has distributed all currently available funds to its investors.

8. On the April 15, 2015 conference call, and on previous occasions, Beacon's counsel has advised AIJED's counsel that it expects to receive additional sums from the Madoff Trustee, but does not know when those sums will be received or in what amounts. Beacon,

through its counsel, has acknowledged that such additional distributions from the Madoff Trustee may be received and distributed to Beacon's investors before AIJED's appeal can be decided. Absent a stay, we understand Beacon will proceed to distribute any sums it may receive in the future to other investors as well.

New York, New York  
April 20, 2015

  
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Rachel J. Presa