

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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DATE FILED: 6/3/14

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BEACON ASSOCIATES LLC I, BEACON :  
ASSOCIATES LLC II, ANDOVER ASSOCIATES, :  
L.P., ANDOVER ASSOCIATES LLC I, ANDOVER :  
ASSOCIATES (QP) LLC, :

Index No. 14-CV-2294

Plaintiffs,

-vs-

~~PROPOSED~~ **SCHEDULING ORDER**

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

Defendants.

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This matter having come before the Court at an in-person initial case conference, held on June 2, 2014, and having been opened to the Court by Herrick Feinstein LLP, attorneys for Plaintiffs Beacon Associates LLC I ("Beacon I"), Beacon Associates LLC II ("Beacon II"), (collectively, "Beacon"); Andover Associates, L.P. ("Andover LP"), Andover Associates LLC I ("Andover I"), Andover Associates (QP) LLC ("Andover QP"), Andover Associates LLC II ("Andover II") (collectively, "Andover"); (both Beacon and Andover collectively, the "Funds"); and by Folkenflik & McGerity, attorney for David Fastenberg, Trustee, Long Island Vitreo-Retinal Consultants 401k FBO David Fastenberg ("Fastenberg"); and by Rosenfeld & Kaplan, LLP, attorney for Beacon Associates Management Corp. and Andover Associates Management Corp. ("Fund Management"); and by Hiscock & Barclay, LLP, attorney for Income Plus Investment Fund ("Income Plus"); and for good cause shown;

IT IS on this 2d day of June, 2014:

**ORDERED THAT** the Funds shall provide initial Notice to investors within 10 days of the date of this court conference by sending to each member of the Funds, by first class mail, notice that this lawsuit has been commenced with such notice containing a description of the lawsuit and the claims asserted (the "Investor Notice").

**IT IS FURTHER ORDERED THAT** that Counsel for the Fund shall create a page on its firm's web site where it shall post a copy of the Complaint and all future documents filed in connection with this matter within seven (7) days of the posting of each document on ECF. The Notice shall explain to the investors how to access the web page and offer investors the opportunity to get a copy of the Complaint mailed to them if they do not have internet access;

**IT IS FURTHER ORDERED THAT** the Fund shall respond by June 6, 2014 to the informal discovery requests previously submitted to it by counsel for Defendants Fastenberg and Income Plus and if any follow up requests are made prior to June 15, 2014 the Funds shall promptly respond to such requests unless the request is deemed objectionable by Fund counsel;

**IT IS FURTHER ORDERED THAT** Defendant Fastenberg and Defendant Income Plus shall file their respective motions advocating for a particular method of distribution by July 15, 2014;

**IT IS FURTHER ORDERED THAT** the parties may file opposition briefs, not to exceed 20 pages in length, by August 15, 2014;

**IT IS FURTHER ORDERED THAT** there shall be no reply papers submitted;

**IT IS FURTHER ORDERED THAT** Fund investors shall have until September 12, 2014 to submit any support or objection to Fund Counsel;

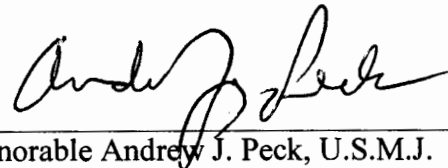
**IT IS FURTHER ORDERED THAT** any Fund investor who wishes to make an oral statement to the Court at the Fairness Hearing shall advise Fund Counsel of their position by September 12, 2014;

**IT IS FURTHER ORDERED THAT** Fund Counsel shall submit any support or objection submissions received from Fund investors to the Court and all parties by September 23, 2014 with a report to the Court advising the Court in summary of the positions taken by investors and a list of investors who wish to be heard at the Fairness Hearing with a summary of each such investor's position..

**IT IS FURTHER ORDERED THAT** a Fairness Hearing is set for 10/7/14,

at 9:30  
AM before Magistrate Judge Andrew J. Peck.

This constitutes the decision and order of the Court.



Honorable Andrew J. Peck, U.S.M.J.

HON. ANDREW J. PECK  
United States Magistrate Judge  
Southern District of New York

*Andrew J. Peck*

**BY ECF**