

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 ARTHUR S. GORDON**

I, ARTHUR S. GORDON, hereby declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury:

1. I am the managing member of Gordon Asset Management LLC (“GAM”), a New York corporation.
2. This declaration is based upon my personal knowledge and review of records and information available to me in my capacity as managing member of GAM. I submit this reply declaration in further support of AIJED International Ltd.’s (“AIJED’s”) Application for Release of Funds Due Pursuant to This Court’s October 31, 2014 Order.
3. I have reviewed the Memorandum of Law of Income Plus (“Income Plus”) Investment Fund relating to Calculations of Net Equity for Certain Investors.

4. In its submission, Income Plus claims Associates transferred moneys to AIJED in 2006 and 2008. Income Plus's assertions are false.

5. In 2005, [REDACTED] investors withdrew from Associates and reinvested in AIJED. At the time, Associates redeemed [REDACTED] from Beacon to accommodate the withdrawals, and AIJED deposited that same amount in its separate Beacon account. For its own administrative convenience, Beacon booked these transactions as a "transfer" from Associates to AIJED, though Beacon, AIJED and Associates always understood that substantively they constituted a redemption by Associates and new investment by AIJED.

6. To my knowledge, the initial deposit by AIJED is the only AIJED transaction that Beacon ever characterized as a transfer. Beacon's spreadsheets calculating Net Equity identify all other account activity of each of Associates and AIJED, respectively, as either an "ADD" or a "WITHDRAWAL."

7. Beacon's characterizations of those activities are accurate: at no time since AIJED's initial investment has there ever been a "transfer" from Associates to AIJED. Indeed, such a transaction would make no legal or economic sense, since the funds at all times had completely different investor-beneficiaries.

8. In October 2006, AIJED contributed an additional [REDACTED] to Beacon, but that cash did not come from Associates. Rather, AIJED wired [REDACTED] in cash to Beacon from AIJED's bank account on or around October 1, 2006. At substantially the same time, Associates withdrew [REDACTED] from its separate Beacon account. Beacon wired that amount in cash to Associates' separate bank account. *See* Exs. C, D, E.

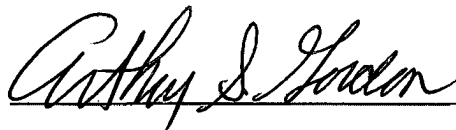
9. The fact that the AIJED contribution occurred at or around the same time as the Associates' withdrawal has no substantive significance. At all times during their existence,

AIJED and Associates maintained separate bank accounts, and never commingled the funds of their different investor bases. The [REDACTED] withdrawn by Associates was wired to Associates' account, was used solely for the benefit of Associates' investors, and no part of it was ever transferred to AIJED. Likewise, the cash contributed by AIJED in 2006 was wired to Beacon from AIJED's separate account, and came solely from investments made to AIJED by its investors.

10. Income Plus also falsely claims that that Associates transferred money to AIJED in 2008. On or around June 30, 2008, AIJED wired [REDACTED] in cash to Beacon from AIJED's separate bank account. Again, AIJED's [REDACTED] capital contribution came from investments made by AIJED's investors only, and not from Associates. At around the same time, Associates redeemed [REDACTED]. That amount was wired by Beacon to Associates' separate bank account, was used solely for the benefit of Associates' investors, and no part of it was ever transferred to AIJED. *See Exs. F, G, H, I.*

11. As further explained in the Gordon Declaration in support of AIJED's Opening Brief, AIJED and Associates were each managed for the sole benefit of their investors. Moreover, there was no material overlap between the investors in the two funds; rather, AIJED and Associates had completely separate investor bases. Accordingly, each fund operated separately and neither fund's assets were comingled with the other. No funds flowed from Associates to AIJED or vice versa for any reason, including in connection with the contributions and withdrawals described above. To that end, AIJED and Associates had separate bank accounts, and neither fund ever executed a transaction with respect to its underlying investments on the other's behalf. Each fund was also separately audited, using different audit firms.

Dated: March 23, 2015  
Boca Raton, Florida

A handwritten signature in cursive script, reading "Arthur S. Gordon", written over a solid horizontal line.

Arthur S. Gordon