## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

BEACON ASSOCIATES LLC I, BEACON ASSOCIATES LLC II, ANDOVER ASSOCIATES, L.P., ANDOVER ASSOCIATES LLC I, ANDOVER ASSOCIATES (QP) 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., Civil Action No. 1:14-cv-02294 (AJP)

Defendants.

## DECLARATION OF BRIAN E. WHITELEY

- I, Brian E. Whiteley, hereby declare on oath and state as follows:
- 1. I am a partner with the law firm of Hiscock & Barclay, LLP, counsel for Income-Plus Investment Fund in the above-captioned matter. I am a member in good standing of the Massachusetts and New York bars and have been admitted pro hac vice to practice law before the Court in this matter.
- 2. Attached hereto as Exhibit 1 is a true and accurate copy of the Affidavit of Lynda S. Borucki of the Brattle Group in Support of Final Approval of the Plan of Allocation, filed on December 12, 2012 in Case #1:09-cv-0777-LBS, *In re Beacon Associates Litigation*, United States District Court for the Southern District of New York.

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Signed under the pains and penalties and perjury this 5th day of September, 2014

Dated: September 5, 2014

Brian E. Whiteley

**CERTIFICATE OF SERVICE** 

I hereby certify that on September 5, 2014, I electronically filed the foregoing Declaration using the CM/ECF system, which sent electronic or other notification of such filing to all counsel of record in this case.

/s/ Brian E. Whiteley

Brian E. Whiteley