

# HERRICK

NEW YORK  
NEWARK  
PRINCETON  
WASHINGTON, D. C.  
ISTANBUL

ARTHUR G. JAKOBY  
PARTNER  
Direct Tel: 212.592.1438  
Direct Fax: 212.545.3340  
Email: ajakoby@herrick.com

October 17, 2014

## VIA E-FILING

The Honorable Andrew J. Peck  
United States Magistrate Judge  
United States Courthouse, Courtroom 20D  
500 Pearl Street  
New York, NY 10007-1312

***Re: Beacon Associates LLCI, et al. v. Beacon Associates Management Corp.  
Civil Case No: 14-cv-2294 (AJP)***

---

Dear Judge Peck:

Attached please find a Memorandum of Law submitted by investor Howard Siegel which is titled:

Memorandum of Investor Howard Siegel With Regard to the Appropriate Methodology to be Used to Compute Investor Allocation Percentages Using the Net Equity (Cash In/Cash Out) Method and With Regard to Determining the Appropriate Allocation Percentage to be Used to Allocate Trustee Recoveries After All Investors Have Received Back Their Entire Capital Investment

Mr. Siegel has requested that I forward this to the Court and that it be filed. A summary of Mr. Siegel's Memorandum is set forth on page 7 where he writes:

To summarize, I believe that an order should be issued that provides, that in computing the allocation of distributions under the CICO Method, that the "taking into account" of the class action settlement payments, should be limited to using the amounts so received to determine when an investor has recovered its entire capital investment, and not to be used in the computation of an investor's allocation percentage, which should be determined solely based on recoveries of investor capital that passed through Beacon.

Further the Order should provide that allocation percentages computed after all investors have recovered their capital investment should be based on investors' remaining capital investments at the time the Madoff fraud was discovered.

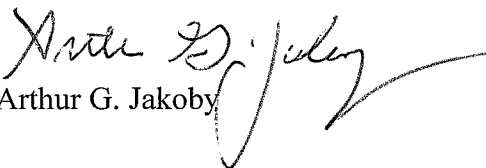
H E R R I C K

The Honorable Andrew J. Peck  
October 17, 2014  
Page 2

Finally, Mr. Siegel disagrees that once all investors receive back all invested capital (break-even of each investors' respective Beacon or Andover investments) future monies of the respective funds should not be distributed according to the Valuation Method allocation percentages. Accordingly, if the Court is inclined to do so, Mr. Siegel requests that the Court issue a full opinion setting forth its rationale for doing so.<sup>1</sup>

With respect to Party briefs, both Mr. Folkenflik and Mr. Whiteley advised me after the October 7<sup>th</sup> hearing that their clients did not intend to challenge the Court's ruling or challenge a post break-even Valuation Method allocation to all investors. The Funds have been assiduously working on a Final Proposed Order to track the Court's decision but, as I explained in a prior letter to the Court, this has proven to be more difficult than we anticipated because as we all have delved into the minute details of anticipated future distributions, we have realized that for purposes of clarity, any Final Order will need to reference certain minor issues (which are not in dispute).<sup>2</sup>

Respectfully submitted,

  
Arthur G. Jakoby

cc: All Parties (via ECF and e-mail)  
Howard Siegel, JD, LLM, CPA (*pro se* via email)

---

<sup>1</sup> Mr. Whiteley has advised me that their clients reserve their rights to file a cross-appeal in the event Mr. Siegel appeals.

<sup>2</sup> I and the Funds' CFO have been keeping Mr. Siegel and, of course, counsel for the Parties, apprised of these issues. Of course, a draft of any Proposed Final Order will be shared with Mr. Whiteley, Mr. Folkenflik and Mr. Siegel to see if we can reach a consensus of all parties who have taken an interest in these issues, before submitting it to the Court. Finally, all Parties and Mr. Siegel are being given all information they have requested of the Funds to address the issues before the Court.