

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

IN RE REV GROUP, INC. SECURITIES LITIGATION	Lead Case No. 2:18-CV-1268-LA
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**DECLARATION OF MICHAEL S. BIGIN IN SUPPORT
OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

1. I am a partner at the law firm of Bernstein Liebhard LLP (“Bernstein Liebhard”). Bernstein Liebhard is the Court-appointed Lead Counsel for Lead Plaintiff HMEPS and the proposed Settlement Classes in the above-captioned action (the “Action”).¹ I have personal knowledge of the matters set forth herein based on my active participation in the Action.

2. I submit this declaration in support of: (a) Lead Plaintiff’s Motion for Final Approval of the Class Action Settlement and Approval of the Plan of Allocation; and (b) Lead Plaintiff’s Motion for an Award of Attorneys’ Fees, Expenses, and Awards to Plaintiffs Pursuant to the Private Securities Litigation Reform Act of 1995. Both motions have the support of the Lead Plaintiff, as well as Plaintiffs Bucks County and Yandoli. *See* Exhibits A-C.²

I. INTRODUCTION

3. Lead Plaintiff obtained an excellent \$14,250,000 cash recovery for the Classes, which has been deposited in an interest-bearing escrow account. In exchange for this payment, the proposed Settlement resolves claims alleged by Lead Plaintiff, Bucks County, Yandoli, and the Classes.

¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement, dated May 19, 2021 (the “Stipulation”), previously filed with the Court. *See* Dkt. 120.

² Citations to “Exhibit” herein refer to exhibits to this Declaration.

4. The case has been vigorously litigated from its commencement through execution of the Stipulation. The Settlement was achieved after Lead Counsel, *inter alia*: conducted a thorough and wide-ranging investigation concerning the alleged misrepresentations and omissions made by Defendants, which included an in-depth investigation of REVG; analyzing REVG's SEC filings, press releases, public statements, and other publications concerning REVG; analyzing securities analysts' reports concerning REVG; and interviews with former REVG employees. Lead Plaintiff drafted three detailed amended complaints, litigated an opposition to amending the complaint, litigated a motion to disqualify the Lead Plaintiff and Lead Counsel, drafted memoranda of law opposing Defendants' two motions to dismiss, consulted with an economic expert, and conducted lengthy and ultimately successful settlement negotiations.

5. Similarly, State Class Counsel vigorously prosecuted the claims of the IPO Class and the SPO Class in Wisconsin State Court. State Class Counsel, *inter alia*: conducted a thorough and wide-ranging investigation concerning the allegedly fraudulent misrepresentations and omissions made by Defendants in connection with the IPO and SPO, which included an in-depth investigation of REVG; analyzing REVG's SEC filings, press releases, public statements, and other publications concerning REVG; analyzing securities analysts' reports concerning REVG; and interviews with former REVG employees. State Class Counsel drafted two initial complaints and one consolidated complaint, litigated a contested motion for consolidation and the appointment of interim class counsel, opposed Defendants' motion to stay the Consolidated State Action, litigated an interim appeal of the trial court's denial of Defendants' stay motion, and conducted lengthy and ultimately successful settlement negotiations together with Lead Counsel.

6. In deciding to settle, Lead Plaintiff and Lead Counsel, together with State Plaintiffs and State Class Counsel, took into consideration the value of an immediate cash recovery as a percentage of maximum damages and the significant risks associated with establishing liability, as well as the duration and complexity of the legal proceedings that remained ahead. As demonstrated by the Parties' court filings, the Settlement was achieved in the face of vigorous opposition by Defendants who would have, had the Settlement not been reached, continued to raise serious arguments concerning, among other things, whether the alleged misstatements were material or false, whether there was any evidence of Defendants' scienter, and whether Lead Plaintiff could prove that the alleged misstatements and omissions caused an economic loss.

7. Lead Counsel respectfully submits that the Settlement warrants final approval pursuant to Rule 23 of the Federal Rules of Civil Procedure because it is fair, reasonable, and adequate.

II. CASE HISTORY

8. Between June 8 and July 19, 2018, various plaintiffs commenced putative class actions in the United States District Court for the Central District of California against certain of the Defendants, styled *Marinoff v. REV Group, Inc., et al.*, No. 2:18-cv-05095 (the "Marinoff Action"), *Rajaram v. REV Group, Inc., et al.*, No. 2:18-cv-05693 (the "Rajaram Action"), and *Bitar v. REV Group, Inc. et al.*, No. 2:18-cv-06239 (the "Bitar Action"), which were subsequently transferred to the United States District Court for the Eastern District of Wisconsin (the "Court") by consent of the parties.

9. On June 26, 2018, Gabriel Yandoli commenced a putative class action in the Waukesha County Circuit Court for the State of Wisconsin (the "Wisconsin State Court") against

certain of the Defendants on behalf of himself and a putative class of REV Group's public stockholders styled *Yandoli v. REV Group, Inc. et al.*, No. 2018CV001163 (the "Yandoli Action").

10. On July 31, 2018, Defendants moved to stay the Yandoli Action in favor of the Consolidated Federal Action. On August 10, 2018, Yandoli opposed Defendants' motion to stay. On August 13, 2018, Defendants filed reply papers in further support of their motion to stay. On August 15, 2018, the Wisconsin State Court held a hearing on Defendants' motion to stay. On September 18, 2018, the Wisconsin State Court issued an order denying Defendants' motion to stay (the "Stay Order").

11. On August 21, 2018, Bucks County commenced a putative class action in the Wisconsin State Court against certain of the Defendants on behalf of itself and a putative class of REV Group's public stockholders styled *Bucks County Employees Retirement System v. REV Group, Inc. et al.*, No. 2018CV001501 (the "Bucks County Action").

12. On September 13, 2018, the State Plaintiffs moved to consolidate the Yandoli Action and the Bucks County Action and to appoint Robbins Geller Rudman & Dowd LLP as Interim Class Counsel. On October 12, 2018, Defendants opposed the State Plaintiffs' motion to consolidate and to appoint Interim Class Counsel. On October 16, 2018, the State Plaintiffs filed reply papers in further support of their motion to consolidate and to appoint Interim Class Counsel. On October 18, 2018, the Wisconsin State Court held a hearing on the State Plaintiffs' motion to consolidate and to appoint Interim Class Counsel. On November 5, 2018, the Wisconsin State Court issued an order (i) consolidating the Yandoli Action and the Bucks County Action in an action styled *Gabriel Yandoli et al. v. REV Group, Inc. et al.*, Consol. Case No. 2018CV001163 (the "Consolidated State Action"); and (ii) appointing Robbins Geller

Rudman & Dowd LLP as Interim Class Counsel (“State Class Counsel”) for the putative plaintiff classes in the Consolidated State Action. On November 2, 2018, Gabriel Yandoli and Bucks County, on behalf of themselves and the putative IPO Class and SPO Class, filed a consolidated complaint in the Consolidated State Action.

13. Pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 77z-1 and 78u-4, as amended (the “PSLRA”), notice to the public was issued setting forth the deadline by which putative class members could move this Court to be appointed to act as lead plaintiffs. On September 19, 2018, the Court entered an order (i) consolidating the Marinoff Action, the Rajaram Action, and the Bitar Action in an action styled *In re REV Group, Inc. Securities Litigation*, Consol. Lead Case No. 2:18-cv-1268 (the “Consolidated Federal Action”); (ii) appointing Houston Municipal Employees Pension System as Lead Plaintiff (“Lead Plaintiff”) in the Consolidated Federal Action; and (iii) approving Bernstein Liebhard LLP as Lead Counsel (“Lead Counsel”) in the Consolidated Federal Action.

14. On October 2, 2018, Defendants filed a petition for leave to appeal the Stay Order to the Wisconsin Court of Appeals. On October 16, 2018, Yandoli opposed Defendants’ petition. On November 26, 2018, the Wisconsin Court of Appeals granted Defendants’ petition. On January 23, 2019, Defendants filed their opening brief in support of their appeal of the Stay Order. On February 1, 2019, Yandoli filed a motion to dismiss the appeal, which was opposed by Defendants and ultimately denied by the Wisconsin Court of Appeals. On March 6, 2019, Yandoli filed a renewed motion to dismiss the appeal, which was opposed by Defendants and ultimately denied by the Wisconsin Court of Appeals. On April 1, 2019, Yandoli opposed Defendants’ appeal. On April 11, 2019, Defendants filed reply papers in further support of their appeal. On March 11, 2020, the Wisconsin Court of Appeals issued an order summarily

reversing the Stay Order and remanding the Consolidated State Action to the Wisconsin State Court.

15. On November 9, 2018, Lead Plaintiff and Defendants stipulated to HMEPS filing its first amended complaint (“FAC”). *See* Dkt. 38. On November 20, 2018, HMEPS filed the FAC. Dkt. 43. The FAC alleged Securities Act and Exchange Act claims for purchasers of REVG securities.

16. On January 11, 2019, Defendants moved to dismiss the FAC. Dkt. 59. Defendants argued that the statements alleged to violate the Securities Act claims were not actionable pursuant to precedent from the Supreme Court of the United States. *See Id.* at 17. Defendants also asserted that the Exchange Act fraud allegations caused the Securities Act claims to sound in fraud, which required pleading pursuant to Rule 9(b) and the Private Securities Litigation Reform Act of 1995. *Id.* at 15-16.

17. On February 28, 2019, before a response to the pending motion to dismiss was due, HMEPS made an expedited motion to file a second amended complaint (the “SAC”). Dkt. 66. The motion to amend attached the SAC and stated that “the SAC deleted the Securities Act Claims and revised certain allegations relating to the Exchange Act.” *Id.*

18. The Underwriter Defendants filed a response on March 7, 2019 stating that they did not oppose HMEPS’ motion to amend. *See* Dkt. 70. On the same date, the REVG Defendants asked that the motion to amend be held in abeyance while Defendants filed a motion to disqualify Lead Plaintiff and Lead Counsel. Defendants also indicated that they would oppose the motion to amend. *See* Dkt 67.

19. On March 11, 2019, REVG filed a motion to disqualify Lead Plaintiff and Lead Counsel. Dkt. 72. In that motion, Defendants argued that Lead Plaintiff should be disqualified

because by dropping the Securities Act claims Lead Plaintiff allowed the previously pending Consolidated State Action with Securities Act claims to proceed against Defendants.

20. After full briefing and oral argument on June 27, 2019, the Court denied the motion to disqualify on July 10, 2019. Dkt. 86. The Court found that the SAC “can quite reasonably be characterized as a strategic choice undertaken in the best interest of the class, with the risk that some class members might pay litigation expenses in two separate actions outweighed, to plaintiff’s mind, by the increased likelihood of recovery.” Dkt. 86 at 5. The Court also permitted Defendants’ request for additional briefing regarding the motion to amend. *Id.* at 7.

21. On July 30, 2019, the Court held a pre-motion conference call with the parties. *See* Dkt. 92. On that call, the Court granted further briefing on the pending motion to amend. HMEPS submitted a renewed brief on August 20, 2019, Defendants opposed on September 3, 2019, and HMEPS replied on September 10, 2019.

22. On September 25, 2019, the Court granted HMEPS’ motion to amend the FAC and file the SAC. Dkt. 99.

23. On September 27, 2019, HMEPS filed the SAC. Dkt. 100. Defendants then moved to dismiss the SAC. Lead Plaintiff opposed the motion, which was fully briefed by November 13, 2019. Dkts. 100, 102, 106, 108.

24. On June 3, 2020, the Parties to the Consolidated Federal Action informed the Court that they were engaged in settlement discussions and asked the Court to defer issuing a decision on REV Group and the Individual Defendants’ pending Motion to Dismiss in the Consolidated Federal Action. Dkt. 110. Parties updated the Court on the status of negotiations periodically between the summer of 2020 through March 18, 2021. Dkts. 110-117.

25. On July 6, 2020, the Wisconsin State Court stayed the Consolidated State Action until further order pursuant to the March 11, 2020 decision of the Wisconsin Court of Appeals.

26. On March 15, 2021, Lead Plaintiff, Bucks County, and Yandoli, on behalf of themselves and the Classes, and Defendants entered into a Memorandum of Understanding (the “Memorandum of Understanding”) memorializing the Parties’ agreement to settle those actions for \$14,250,000 in cash, subject to approval of the Court.

27. On March 18, 2021, the Parties informed the Court that they had reached an agreement in principle to settle the claims against Defendants and asked the Court to continue to defer issuing a decision on REV Group and the Individual Defendants’ pending Motion to Dismiss. The Stipulation was filed the following day.

28. On May 19, 2021, Lead Plaintiff filed a third amended complaint (“TAC”), which included Exchange Act and Securities Act claims alleged by Lead Plaintiff, with Bucks County and Yandoli named as additional plaintiffs Dkt. 121. The Court granted the motion on August 31, 2021.

III. COMPLIANCE WITH THE PRELIMINARY APPROVAL ORDER

29. By Order entered August 24, 2021, the Court preliminarily approved the Settlement and approved the forms of notice to the Classes. Dkt. 124. Pursuant to the Preliminary Approval Order, the Court appointed JND Legal Administration (“JND”) as Claims Administrator and instructed JND to disseminate copies of the Notice to the Classes.

30. The Notice informed the Members of the Classes of the terms of the Settlement, their right to object or seek exclusion, and that Lead Counsel sought attorney fees of up to 20% of the Settlement Fund and reimbursement of expenses not to exceed \$275,000.

31. Attached as Exhibit D is the Declaration of Luiggy Segura Regarding: (A) Mailing of the Notice Packet; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusions and Objections Received to Date. This Declaration demonstrates that the Claims Administrator has provided Notice to the Classes in compliance with the Preliminary Approval Order.

32. In addition to providing Notice directly to Members of the Classes, JND caused the Summary Notice to be published in *Investor's Business Daily* and to be transmitted over *PR Newswire*. *Id.* at ¶ 13.

33. Lead Counsel has reviewed the Summary Notice as distributed to the Classes.

34. JND also maintains and posts information regarding the Settlement on a dedicated website established for the Action, www.RevGroupSecuritiesLitigation.com, to provide Members of the Classes with information about the Action, as well as downloadable copies of the Notice, Claim Form and Stipulation. *Id.* at ¶ 15.

35. Lead Counsel reviewed the Claims Administrator's website for the Action and confirmed that it was operational and provided information to the Classes.

36. Lead Counsel also posted Notice to the Classes on its firm website.

37. Pursuant to the terms of the Preliminary Approval Order, the deadline for Members of the Classes to submit objections to the Settlement or the fee and expense application, or to request exclusion from the Classes is November 18, 2021. To date, JND reports that it has not received any objections or requests for exclusion from the Classes. *Id.* at ¶¶ 18-19.

38. Lead Counsel is unaware of any objection to the Settlement or request for exclusion from the Classes. Should any objections or requests for exclusion be received, Lead Plaintiff will address such in the reply papers.

IV. REASONS FOR THE SETTLEMENT

39. The \$14,250,000 Settlement is an excellent result, particularly when considered in view of the substantial risks and obstacles to recovery if the Action were to continue through summary judgment, to trial, and through post-trial motions and appeals.

40. The Settlement recovers more than 9% of the \$158.2 million in maximum estimated damages. This percentage is almost twice the median settlement amount for similarly situated actions as reported by Cornerstone Research in Laarni T. Bulan et al., *Securities Class Action Settlements: 2020 Review and Analysis*, which tracks and aggregates court-approved securities class action settlements. *See* Exhibit E.

41. This Settlement when viewed as a percentage of maximum recoverable damages is likely even more favorable to the Classes because Lead Plaintiff's \$158.2 million damage estimate would be subject to formidable challenges by Defendants.

42. Though Lead Plaintiff believes that the claims were actionable, Lead Plaintiff also recognizes that there were considerable risks in continuing the Action against Defendants. Lead Plaintiff and Lead Counsel carefully considered these risks during the months leading up to the Settlement and throughout the lengthy settlement discussions with Defendants.

43. In agreeing to settle, Plaintiffs and Plaintiffs' Counsel weighed, among other things, the substantial cash benefit to Members of the Classes against: (i) the uncertainties associated with trying complex securities cases; (ii) the difficulties and challenges involved in

proving materiality, falsity, scienter, causation, and damages in this particular case; and (iii) the delays that would follow even a favorable final judgment, including appeals.

44. Defendants have argued in their motions to dismiss that Lead Plaintiff could not prove the alleged statements were actionable or that Defendants possessed the requisite state of mind to support the Exchange Act claims.

45. Proving loss causation and damages also posed a risk to recovery for the Classes. Plaintiffs' complaints, including the TAC, alleged that two partially corrective disclosures revealed issues that caused material price drops. While Lead Plaintiff believes each partial disclosure revealed new material information to the market, damages would be cut substantially if the Court found otherwise. In addition, the effects of disaggregating unrelated market information from the price movements on the dates of the disclosures had the potential to reduce damages.

46. The Settlement also provides the Classes with a prompt and substantial tangible recovery, without the considerable risk, expense, and delay of litigating to completion. While Lead Plaintiff believes the TAC would have been sustained, risks were shown through Defendants' motion to dismiss the SAC. Additionally, if the TAC was only sustained in part, the Class Period could be shortened, which would bar recovery for certain members of the Classes.

47. Defendants would also likely have sought summary judgment and there was no guarantee that Plaintiffs would prevail against Defendants' challenges and, even if they did, how the Court's rulings would affect damages or how the case would be presented to the jury.

48. These risks aside, discovery would have been protracted and the trial of Lead Plaintiff's claims would inevitably be long and complex, and even a favorable verdict would undoubtedly spur a lengthy post-trial and appellate process.

49. Plaintiff's success was by no means assured. It is possible that a jury could have found no liability or no damages. Lead Counsel therefore respectfully submits that based upon the considerable risk factors present, this Settlement is an excellent result for the Classes and involved a very substantial contingency risk to Plaintiffs' Counsel.

50. As part of the Settlement, REV Group produced 13,739 pages of documents relating to the allegations at issue. Plaintiffs found nothing in this discovery to make them question the reasonableness of the Settlement.

V. PLAINTIFFS' COUNSEL'S REQUEST FOR ATTORNEYS' FEES

51. The work undertaken by Plaintiffs' Counsel in investigating and prosecuting this case and arriving at the present Settlement in the face of serious hurdles has been time-consuming and challenging. Among other efforts, Lead Counsel conducted a comprehensive investigation into the Classes' claims; researched and prepared three detailed amended class action complaints; litigated a motion to disqualify the Lead Plaintiff and Lead Counsel, briefed two oppositions to Defendants' motions to dismiss; successfully moved to amend the SAC over Defendants' opposition; reviewed documents confirming the fairness of the Settlement; and engaged in a hard-fought settlement process with experienced defense counsel.

52. At all times throughout the pendency of the Action, Plaintiffs' efforts were driven and focused on advancing the litigation to bring about the most successful outcome for the Classes, whether through settlement or trial, by the most efficient means necessary.

53. Attached hereto are declarations from Plaintiffs' Counsel, which are submitted in support of the request for an award of attorneys' fees and payment of expenses. *See Exhibits F-J.*

54. Included with these declarations are schedules that summarize the time of each firm, as well as the expenses incurred by category (the “Fee and Expense Schedules”).

55. Lead Counsel and Plaintiffs’ Counsel are experienced and skilled securities litigation law firms as demonstrated by the firms’ bios attached as exhibits to Plaintiffs’ Counsel’s Declarations.

VI. PLAINTIFFS’ COUNSEL’S REQUEST FOR LITIGATION EXPENSES

56. Lead Counsel seeks payment from the Settlement Fund of litigation expenses reasonably and necessarily incurred in connection with commencing and prosecuting the claims against Defendants.

57. The Notice informs the Classes that Lead Counsel will apply for payment of litigation expenses of no more than \$275,000, plus interest at the same rate earned by the Settlement Fund.

58. As set forth in Plaintiffs’ Counsel’s Declarations in support of Lead Counsel’s motion for payment of attorney’s fees and expenses, Plaintiffs’ Counsel have incurred a total of \$137,663.35 in litigation expenses in connection with the prosecution of the Action. *See Exs. F-J.*

59. All of the litigation expenses were necessary for the successful prosecution and resolution of the claims against Defendants and are below the estimated expenses listed in the Notice.

VII. REIMBURSEMENTS TO LEAD PLAINTIFF AND NAMED PLAINTIFFS PURSUANT TO THE PSLRA

60. Pursuant to the PSLRA, 15 U.S.C. § 78u-4(a)(4), Lead Plaintiff HMEPS and additional named plaintiffs Bucks County and Yandoli are seeking reimbursement related

directly to their representation of the Classes, including time reviewing pleadings, court filings, and participating in settlement.

61. As set forth in the Declaration of Erin Perales, general counsel of HMEPS, HMEPS seeks an award of \$6,475 as reimbursement for time dedicated to the Action. *See* Exhibit A.

62. As set forth in the Declaration of Amy Fitzpatrick on behalf of Bucks County, Bucks County seeks an award of \$1,438 as reimbursement for the time dedicated to the Action. *See* Exhibit B.

63. As set forth in the Declaration of Yandoli, Yandoli seeks an award of \$8,000, as reimbursement for the time dedicated to the Action. *See* Exhibit C.

64. The Notice informed potential members of the Classes that Lead Counsel would be seeking payment of expenses in an amount not to exceed \$275,000, including reimbursement to Plaintiffs directly related to their representation of the Classes. The aggregate amount requested, \$153,576.35 (which includes \$137,663.35 in litigation expenses incurred by Plaintiffs' Counsel and \$15,913.00 in reimbursements to the Lead Plaintiff and Named Plaintiffs), is well below the \$275,000 estimate given to the Classes in the Notice.

VIII. CONCLUSION

65. In view of the significant recovery to the Classes and the substantial risks of this litigation, Plaintiffs' Counsel respectfully submit that the Settlement should be approved as fair, reasonable, and adequate. Additionally, in view of the significant recovery in the face of substantial risks, the quality of work performed, the contingent nature of the fee, and the standing and experience of Plaintiffs' Counsel, Plaintiffs' Counsel respectfully submit that the requested fee and expenses be awarded.

IX. TABLE OF EXHIBITS

66. The following attached exhibits are true and correct copies:

EXHIBIT	DOCUMENT
A.	Declaration of Erin Perales in Support of Final Approval of the Settlement, an Award of Attorneys’ Fees and Litigation Expenses, and Reimbursement of Expenses for Lead Plaintiff
B.	Declaration of Amy Fitzpatrick in Support of: (1) Final Approval of Settlement; and (2) an Award of Attorneys’ Fees and Expenses and an Award to State Class Representatives
C.	Declaration of Gabriel Yandoli in Support of: (1) Final Approval of Settlement; and (2) an Award of Attorneys’ Fees and Expenses and an Award to State Class Representatives
D.	Declaration of Luiggy Segura Regarding: (A) Mailing of the Notice Packet; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusions and Objections Received to Date
E.	Cornerstone Research in Laarni T. Bulan et al., <i>Securities Class Action Settlements: 2020 Review and Analysis</i>
F.	Declaration of Stanley D. Bernstein in Support of Bernstein Liebhard LLP’s Application for an Award of Attorneys’ Fees and Reimbursement of Expenses
G.	Declaration of Shpetim Ademi in Support of Ademi LLP’s Application for an Award of Attorneys’ Fees and Reimbursement of Expenses
H.	Declaration of Brian E. Cochran Filed on Behalf of Robbins Geller Rudman & Dowd LLP in Support of Application for Award of Attorneys’ Fees and Expenses
I.	Declaration of K. Scott Wagner filed on Behalf of Mallery, S.C. in Support of Application for Award of Attorneys’ Fees and Expenses
J.	Declaration of Michael I. Fistel, Jr. filed on Behalf of Johnson Fistel, LLP in Support of an Application for Award of Attorneys’ Fees and Expenses

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of November, 2021

/s/ Michael S. Bigin

Michael S. Bigin
BERNSTEIN LIEBHARD LLP