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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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| JOSE CHUNG LUO, Individually and on Behalf of All Others Similarly Situated,<br><br>Plaintiff,<br><br>vs.<br><br>SPECTRUM PHARMACEUTICALS, INC., et al.,<br><br>Defendants. | No. 2:21-cv-01612-CDS-BNW<br><br>CLASS ACTION<br><br>DECLARATION OF JEFFREY J. STEIN IN SUPPORT OF: (1) MOTION FOR FINAL APPROVAL OF PROPOSED SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION; AND (2) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AN AWARD TO LEAD PLAINTIFF PURSUANT TO 15 U.S.C. §78u-4(a)(4) |

I, JEFFREY J. STEIN, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California and have been admitted *pro hac vice* to this Court. I am a partner with the law firm Robbins Geller Rudman & Dowd LLP ("Robbins Geller" or "Lead Counsel"), Lead Counsel for Lead Plaintiff International Trading Group, Inc. ("Plaintiff") and the Class in the above-captioned action (the "Litigation"). I was actively involved in the prosecution of this Litigation, am familiar with its proceedings, and have personal knowledge of the matters set forth herein based upon my supervision of, and participation in, all material aspects of the Litigation.[1]

2. I submit this declaration, pursuant to Rule 23 of the Federal Rules of Civil Procedure, in support of: (a) final approval of the $15.95 million Settlement reached for the benefit of the Class;[2] (b) approval of the proposed Plan of Allocation of the Settlement proceeds; and (c) approval of the application for attorneys' fees and expenses and an award to Plaintiff.

## I. SUMMARY OF LITIGATION AND REASONS FOR SETTLEMENT

3. This action was brought against Spectrum Pharmaceuticals, Inc.[3] ("Spectrum" or the "Company"), Joseph W. Turgeon, Kurt A. Gustafson, Francois J. Lebel, and Thomas J. Riga (collectively, "Individual Defendants" and together with Spectrum, the "Defendants"), on behalf of the Class for alleged violations of §§10(b), 20(a), and 20A of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. §§78j(b), 78t(a), and 78t-1) and Rule 10b-5 promulgated thereunder (17 C.F.R. §240.10b-5) by the U.S. Securities and Exchange Commission ("SEC"). This case was vigorously litigated until the proposed settlement agreement was reached on March 26, 2025.

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[1] Unless otherwise defined herein, capitalized terms and acronyms have the meaning ascribed to them in the Stipulation of Settlement, filed on May 9, 2025 (ECF 131) ("Stipulation").

[2] The Court defined the Class as: "[A]ll Persons who purchased or otherwise acquired Spectrum Pharmaceuticals, Inc. ("Spectrum") common stock between March 7, 2018, and August 5, 2021, inclusive. Excluded from the Class are: (i) Defendants and members of the Individual Defendants' immediate families; (ii) the officers and directors of Spectrum during the Class Period, and members of their immediate families; (iii) the legal representatives, heirs, successors, or assigns of any of the foregoing; and (iv) any entity in which any Defendant has or had a controlling interest. Also excluded from the Class is any Person who properly excludes himself, herself, itself, or themselves from the Class by submitting a valid and timely request for exclusion." ECF 138, ¶2.

[3] Spectrum was acquired by Assertio Holdings, Inc. ("Assertio") on July 31, 2023.

4. Lead Counsel and Plaintiff zealously, efficiently, and effectively prosecuted the Litigation. The Settlement was not achieved until Plaintiff, *inter alia*: (a) successfully achieved the appointment as Lead Plaintiff with Robbins Geller as Lead Counsel in July 2022 (ECF 37); (b) investigated and drafted the Amended Consolidated Class Action Complaint (the "First Amended Complaint"), filed on September 26, 2022 (ECF 46); (c) opposed Defendants' first motion to dismiss, via extensive written briefing and a hearing; (d) investigated and drafted the Second Amended Consolidated Class Action Complaint (the "Second Amended Complaint" or "Complaint"), filed on March 29, 2024 (ECF 93); (e) successfully opposed Defendants' second motion to dismiss; (f) negotiated a case schedule with Defendants to govern all major procedural deadlines in the case (ECF 119); (g) served Defendants with Plaintiff's first sets of document requests, interrogatories, and requests for admission; (h) reached an agreement with Defendants on the terms of a protective order, which the Court entered in December 2024 (ECF 125); (i) negotiated the terms of an ESI protocol to govern the production of documents in this Litigation; (j) engaged in protracted negotiations with Defendants regarding the disputed scope of discovery and production of relevant and responsive documents; and (k) engaged in extensive settlement negotiations under the supervision of mediator David M. Murphy of Phillips ADR Enterprises, which included preparation of detailed mediation statements (supported with expert damages analyses) and participation in an all-day joint mediation session.[4]

5. The proposed settlement of $15.95 million is the result of hard-fought and contentious litigation pursued by zealous advocates on both sides and takes into consideration the significant risks specific to this case. The Settlement is also the product of arm's-length negotiations by experienced counsel for Plaintiff and Defendants, who had a comprehensive understanding of both the strengths and potential weaknesses of their respective positions.

[4] As discussed further below, while the parties did not reach a settlement during this session, Mr. Murphy gained a thorough understanding of the parties' positions during the joint session and, on March 26, 2025, Mr. Murphy made a mediator's proposal of a settlement based upon a cash payment of $15.95 million. Both sides accepted Mr. Murphy's proposal and agreed to the material terms of the Settlement shortly thereafter.

6. Lead Counsel and Plaintiff submit that the proposed Settlement is a fair, reasonable, and adequate result for the Class. Based upon their investigation, research, and analysis, as well as their success at the motion to dismiss stage of litigation, Plaintiff and Lead Counsel believe that the claims asserted in the Litigation have significant merit. Indeed, Plaintiff's perseverance through four years of litigation resulted in its success at the pleadings stage. Discovery was underway at the time settlement was reached, and Lead Counsel believes continued discovery would have revealed evidence to support Plaintiff's claims, defeat a potential summary judgment motion, and sustain a jury verdict in Plaintiff's favor.

7. Despite the strength of Plaintiff's claims and the likelihood of discovering evidence to support them, there were substantial risks to Plaintiff's ability to obtain, protect, and ultimately recover a favorable judgment after trial. Most significantly, the company that acquired Spectrum, Assertio, had limited insurance and dwindling financial resources at the time of the parties' settlement negotiations. Even if Plaintiff succeeded in bolstering its claims with discovery, further litigation would likely only reduce the funds available for recovery on behalf of the Class.

8. Plaintiff also faced significant risks and challenges associated with discovery. For example, the parties had dramatically different views on the appropriate scope of the case. They disputed which alleged misstatements remained in the case following the Court's Order on Defendants' motion to dismiss the Second Amended Complaint, whether the contents of any dismissed misstatements bore relevance on the surviving claims for discovery purposes, and Plaintiff proposed a relevant time period two and one-half years longer than the time period Defendants proposed. After multiple meet-and-confer conferences, and numerous letters and emails setting forth the parties' diametrically opposed positions on these issues, Plaintiff and Lead Counsel were preparing to move the Court to compel Defendants' production of comprehensive discovery regarding all of the misstatements Plaintiff believed survived dismissal. If the Court adopted Defendants' view of the scope of the case, the amount of recoverable damages would have been slashed to approximately one-quarter of the value Plaintiff claimed. *See* ECF 130.

9. Moreover, continued litigation may have led to years of delay and significant expense before recovery of damages for the Class. The parties faced voluminous document review, Plaintiff

discovery, depositions, class certification, expert discovery, summary judgment, trial, and any appeals. Plaintiff accepted the mediator's proposal, described below, with a full understanding and appreciation of the serious risks involved in proceeding with its claims through trial, where Plaintiff's success would have hinged on proving each of the elements of its claims.

10. Plaintiff and Lead Counsel have evaluated the available facts that weigh in favor of and against Plaintiff's claims. Plaintiff and Lead Counsel considered these facts, together with the other factors discussed herein, before concluding that the mediator's proposal to settle the Litigation for $15.95 million provides fair, reasonable, and adequate consideration to the Class.

11. In addition, the fee application for 30% of the Settlement Fund is fair to both the Class and Lead Counsel, is supported by Plaintiff, and warrants this Court's approval. This fee request is similar to other fee requests approved by courts in this Circuit and is justified in light of the result obtained, the risks undertaken by Lead Counsel, the quality of representation, and the nature and extent of the legal services performed. Lead Counsel, as described below, vigorously prosecuted this Litigation on a wholly contingent basis for four years and advanced or incurred significant litigation expenses. Lead Counsel has long borne the risk of an unfavorable result. It has not received any compensation for its substantial efforts, nor have its expenses been reimbursed.

12. Lead Plaintiff's Counsel should also be awarded their expenses of $146,683.19 as the costs and expenses incurred in prosecuting this Litigation were reasonable and necessary in order to achieve the result obtained on behalf of the Class.[5] These charges, costs, and expenses related to: (a) factual and legal research, as well as photocopying, imaging, and printing voluminous documents; (b) transportation, hotels, and meals when Lead Counsel was required to travel; (c) court fees; (d) the fees and expenses of an investigator and damages experts; and (e) mediation expenses.

13. As described in detail below, these modest expenses were reasonably and necessarily incurred to, *inter alia*, plead Plaintiff's claims with particularity, defend against Defendants' multiple motions to dismiss, and obtain a settlement on the terms proposed. Lead Counsel and Plaintiff therefore respectfully submit that: (a) the Settlement should be approved as fair, reasonable, and

[5] Lead Plaintiff's Counsel refers to Robbins Geller and local counsel Campbell & Williams.

adequate; (b) Lead Plaintiff's Counsel should be awarded attorneys' fees in the amount of 30% of the Settlement Amount (or $4,785,000) and expenses in an amount of $146,683.19, plus interest on both amounts; (c) the Plan of Allocation should be approved; and (d) Plaintiff should be awarded $8,250.00 for its time and expenses pursuant to 15 U.S.C. §78u-4(a)(4) in representing the Class.

## II. FACTUAL BACKGROUND OF THE LITIGATION

14. Throughout the Class Period, Spectrum was a small pharmaceutical company based in Henderson, Nevada. ECF 93 at ¶48. [6] Spectrum purchased late-stage developmental drugs with an aim to bring them to market. ¶1. Spectrum's two primary developmental drugs during the Class Period were Pozi, a drug intended to treat specific lung cancers, and Rolontis, a drug intended to treat neutropenia, a side effect of chemotherapy. *Id.* Plaintiff alleged, *inter alia*, that Defendants materially misrepresented the results of clinical trials and FDA inspections, which Plaintiff alleged led Spectrum's investors to misunderstand Defendants' ability to gain FDA approval for the drugs and bring them to market.

15. Plaintiff alleged two separate frauds: one concerning Pozi and one concerning Rolontis. First, regarding Pozi, the Complaint alleged that Spectrum conducted its Pozi clinical trial on an "unmasked" basis, which granted Defendants ready access to trial data as the trial progressed. ¶4. While Defendants publicly made rosy statements regarding Pozi's efficacy, the data actually revealed that Pozi lacked sufficient efficacy to warrant approval and exhibited serious safety and tolerability concerns. *Id.* Rather than share this adverse information with investors, Defendants misleadingly cited outdated data and claimed they were "really confident" the FDA would approve the ineffective drug. *Id.* They also claimed Pozi addressed a "huge unmet need" among lung cancer patients but misrepresented the efficacy of existing drugs and the efficacy hurdle that Pozi would need to clear to obtain FDA approval. *Id.* Finally, they claimed the side effects of Pozi were "in line" with competing products, when in reality they were so "disabling" and "intolerable" for patients that many were forced to stop treatment before they completed the trial. *Id.*

[6] The information in this section is based on the allegations in the Complaint, the information revealed in investigation of the Second Amended Complaint, and other sources of information believed to be accurate. Unless otherwise indicated, references to "¶_" or "¶¶_" are to the Second Amended Complaint (ECF 93), filed with the Court on March 29, 2024.

16. Second, regarding Rolontis, Plaintiff alleged that Defendants falsely represented their readiness for an FDA inspection at their South Korean manufacturing facility. ¶5. They claimed Spectrum was "absolutely ready" for the inspection because the Company had routinely interacted with the FDA to understand its requirements and had retained experts to examine the facility ahead of time. *Id.* According to sources inside the Company but unknown to investors, Spectrum failed its mock inspections multiple times. *Id.* Ultimately, Spectrum was so unprepared for the inspection that the FDA found a laundry list of deficiencies, including fundamental mistakes such as failing to properly clean equipment and follow Spectrum's own protocols. *Id.*

17. The truth regarding Spectrum's misrepresentations and omissions was not revealed at once but rather leaked out over time – harming Plaintiff and other Class Members. ¶¶285-297. On December 19, 2018, Spectrum announced that the FDA did not grant expedited review for Pozi. ¶286. On this news, the price of Spectrum common stock declined by more than 38%, from a close of $10.44 on December 19, 2018, to a close of $6.39 on December 20, 2018. ¶287.

18. Then, before the market opened on December 26, 2019, Spectrum announced that Pozi did not meet its pre-specified endpoint in Cohort 1 of the Phase 2 clinical trial, ZENITH20. ¶290. The Company also disclosed alarming statistics regarding the safety of the treatment. *Id.* As a direct result of the disclosure, the price of Spectrum common stock declined from a December 24, 2019 closing price of $8.75 per share to a December 26, 2019 closing price of $3.50 per share – a decline of 60.0%. *Id.*

19. Next, after the market closed on December 22, 2020, the Company announced that "its pre-specified primary endpoint in its Phase 2 clinical trial . . . was not met in Cohort 3." ¶293. The news caused Spectrum's common stock to decline 9.1%, closing on December 22, 2020 at $4.25 per share and closing on December 23, 2020 at $3.87 per share. *Id.*

20. Finally, before the market opened on August 6, 2021, the Company disclosed that it received a complete response letter from the FDA denying (temporarily) its application for approval of Rolontis. ¶295. According to the news release, "[t]he CRL cited deficiencies related to manufacturing and indicated that a reinspection will be necessary." *Id.* Spectrum common stock

dropped from an August 5, 2021 closing price of $3.25 per share to an August 6, 2021 closing price of $2.55 per share – a decline of 21.5%. *Id.*

## III. PROCEDURAL HISTORY

21. Litigating this case was highly contentious and involved significant disputes during all phases. Defendants advanced vigorous challenges at both rounds of the pleading stage, and the parties disputed numerous discovery issues following Plaintiff's success at the motion to dismiss stage. Thousands of hours of attorney and staff time were required to investigate the claims, prepare two detailed pleadings, and mount a defense to Defendants' multiple motions to dismiss. Further time was dedicated to preparing to litigate the parties' dispute as to the scope of discovery, an issue over which the parties met and conferred multiple times for many hours and which was poised for motion practice, prior to the settlement of this Litigation.

### A. The Initial Complaint Was Filed and International Trading Group, Inc. Was Appointed Lead Plaintiff

22. On August 31, 2021, Jose Chung Luo initiated this action by filing a complaint against Spectrum in this District. ECF 1. That complaint solely focused on Defendants' misleading statements concerning Rolontis, alleging a December 27, 2018 to August 5, 2021 class period.

23. In accordance with the Private Securities Litigation Reform Act of 1995's ("PSLRA") requirements, on August 31, 2021, notice was published advising putative Class members of their right to file a motion for appointment as lead plaintiff. 15 U.S.C. §§78u-4(a)(1), (a)(3)(B)(i). In response to that notice, five putative Class members moved for appointment as lead plaintiff. ECF 15, 16, 17, 18, 20. On July 28, 2022, following substantive briefing concerning each movant's adequacy to serve as lead plaintiff, this Court appointed Plaintiff as Lead Plaintiff and approved its selection of Robbins Geller as Lead Counsel. ECF 37.

### B. Plaintiff Vigorously Advanced Its Claims at the Pleadings Stage and Defeated Defendants' Motion to Dismiss

24. Following its appointment as Lead Plaintiff, International Trading Group, Inc. investigated the putative class's claims, which consisted of, *inter alia*, (i) reviewing and analyzing the Company's public statements, including: (a) Spectrum's periodic public filings with the SEC; (b) transcripts of Spectrum's senior management's conference calls with investors and analysts;

(c) press releases issued by the Company; and (d) Spectrum's filings with the FDA; (ii) reviewing and analyzing other public information regarding the Company and the case, including: (a) media reports about Spectrum; (b) analyst reports issued about Spectrum; (c) FDA rules, regulations, and procedures; (d) documents related to the Company's FDA filings; and (e) other public news media and data; (iii) interviewing numerous former Spectrum employees; and (iv) working with experts and consultants to examine the Company stock price reaction to Defendants' alleged misstatements and corrective disclosures.

25. Based on the results of its investigation, Plaintiff filed its First Amended Complaint on September 26, 2022, alleging claims arising under §§10(b), 20(a), and 20A of the Exchange Act (15 U.S.C. §§78j(b), 78t(a), and 78t-1), and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §240.10b-5). ECF 46.

26. Through its investigation, Plaintiff uncovered additional information that supported the initial complaint's allegations regarding Rolontis. Additionally, Plaintiff discovered and developed well-supported allegations that Defendants issued material false and misleading statements regarding the clinical trials of Pozi and its prospects for FDA approval. These allegations were not included in the original complaint at all, and are solely the result of Plaintiff's diligent and thorough investigation. These allegations also added three of the four corrective disclosures to the case, which increased the value of recoverable damages tenfold.

27. On November 30, 2022, Defendants moved to dismiss the First Amended Complaint on numerous grounds, arguing that Plaintiff had not adequately alleged falsity or scienter, and further arguing that their statements were protected by the PSLRA safe harbor, or were inactionable statements of opinion and corporate optimism. ECF 55.[7]

28. Plaintiff filed its opposition on January 27, 2023, arguing, *inter alia*, that Defendants: (i) did not contest Plaintiff's scheme allegations under Rule 10b-5(a) and (c); (ii) made materially false statements about Pozi and Rolontis, or omitted necessary material information; (iii) made those statements and omissions with the requisite state of mind; and (iv) were not entitled to protection

[7] Pursuant to the PSLRA, Defendants' motion stayed all formal discovery in this matter.

under the PSLRA safe harbor. ECF 61. On February 27, 2023, Defendants filed a reply in support of their motion to dismiss. ECF 66.

29. On February 6, 2024, the Court held a hearing on Defendants' motion to dismiss and heard lengthy oral argument. The Court issued an oral order at the hearing dismissing the First Amended Complaint, but granting Plaintiff leave to amend. ECF 82.

30. On March 29, 2024, after further rigorous investigation, Plaintiff filed its Second Amended Complaint, again alleging claims arising under §§10(b), 20(a), and 20A of the Exchange Act (15 U.S.C. §§78j(b), 78t(a), and 78t-1), and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §240.10b-5). The Second Amended Complaint sought to address the concerns the Court raised during the February 6, 2024 hearing. ECF 93. Among other additions, the Second Amended Complaint provided detailed scienter allegations supported by anonymous accounts from a former Spectrum employee and a research coordinator who participated in the Pozi clinical trials.

31. On May 13, 2024, Defendants moved to dismiss the Second Amended Complaint on largely the same grounds as their first motion to dismiss. ECF 99. Plaintiff filed its opposition on June 27, 2024 (ECF 104), and Defendants filed their reply on July 22, 2024 (ECF 112).

32. On October 7, 2024, the Court issued an order granting in part and denying in part Defendants' motion to dismiss the Second Amended Complaint, holding Plaintiff had alleged actionable claims under §§10(b), 20(a), and 20A. ECF 116 (the "Motion to Dismiss Order"). Notably, the Court dismissed all of the Rolontis claims that formed the basis of the original complaint, but upheld Plaintiff's Pozi claims, which Plaintiff added after Lead Counsel's tireless investigation. In other words, without the work of Plaintiff and Lead Counsel, the case would have been dismissed in its entirety.

33. With regard to the Pozi claims, the Court determined that Plaintiff adequately alleged that Defendants materially misrepresented the efficacy hurdle needed for Pozi to obtain FDA approval. *Id.* at 13-17; 20-23. The Court further found that Plaintiff adequately alleged that certain statements concerning the Pozi ZENITH20 trial were false and misleading, and referenced one of Riga's statements as an example. *Id.* at 20. The Court also found that Plaintiff adequately alleged Turgeon's scienter, in light of his Class Period stock sales and the timing of his departure from the

Company. *Id.* at 29 n.11 ("I find the timing, amounts and percentages of Turgeon's trades notable and inconsistent with his 'prior trading history.'"). Finally, because Plaintiff adequately alleged a primary violation under §10(b), the Court upheld Plaintiff's §§20(a) and 20A claims. *Id.* at 31-32.

**C. Plaintiff Diligently Pursued Fact Discovery**

**1. Initial Discovery Negotiations**

34. Following the issuance of the Court's Motion to Dismiss Order, the parties held their Rule 26(f) conference telephonically on October 14, 2024, to confer about the Joint Proposed Discovery Plan. ECF 119. As a result of these efforts, the parties were able to resolve many discovery disputes without Court intervention. For example, Defendants took the position that the discovery stay prescribed by the PSLRA remained in place through the Court's provided deadline for leave to amend. ECF 116. To progress with discovery while avoiding Court intervention, the parties stipulated to engage in limited discovery prior to the deadline to amend the pleading. ECF 119.

35. The parties exchanged initial disclosures on November 8, 2024.

36. The parties negotiated a Stipulated Protective Order designed to maintain the confidentiality of documents, testimony, or other information produced during discovery in this Litigation, which the Court approved on December 30, 2024. ECF 125.

37. During the course of the Litigation, the parties met and conferred on numerous occasions to discuss the format, timing, and scope of document productions. The parties negotiated and exchanged drafts of an agreement concerning the form of production for electronically stored information, and were close to reaching agreement when they reached the Settlement.

**2. Document Discovery from Defendants**

38. On November 13, 2024, Plaintiff served its First Set of Requests for Production of Documents to all Defendants containing 45 requests regarding all aspects of its claims. Defendants served their responses and objections to Plaintiff's first set of requests for production on December 13, 2024. In their responses, Defendants asserted that, based on their restrictive view on the surviving scope of the case, they would only produce documents related to the period between February 1, 2018 and December 31, 2018. For the same reason, Defendants refused to produce

documents concerning, *inter alia*: (i) Pozi's performance during the MD Anderson trial; (ii) the FDA's approval requirements for Pozi; (iii) Pozi's safety and tolerability; (iv) the data or results of the MD Anderson trial or the ZENITH20 trial; (v) Turgeon's stock sales; (vi) Spectrum's ATM financings; (vii) Spectrum's underwritten public offering in July 2020; (viii) the executive departures; (ix) Spectrum's overall financial condition and financial projections; and (x) the costs of the MD Anderson trial or the ZENTIH20 trial, including those borne by Spectrum.

39. The parties engaged in protracted communications concerning Defendants' responses and objections to Plaintiff's requests for production, including multiple meet-and-confer calls, substantive letter exchanges, and email correspondence. In support of its request for broader discovery, Plaintiff argued that the Court upheld not only Turgeon's statements concerning the MD Anderson trial, but also his statement concerning Pozi's "pole position" status during the ZENITH20 trial. Plaintiff maintained that, even if certain statements were determined not to be actionable, discovery related to those issues would still be permissible under the broad rules governing discovery. Finally, Plaintiff argued that all three corrective disclosures related to Pozi remained in the case.

40. In contrast, Defendants argued that the sole remaining theory of liability concerned Pozi's comparators during its bid for expedited review. Under Defendants' view, the only remaining loss event for which Class Members could recover damages was the disclosure on December 19, 2018, when Spectrum announced that the FDA did not grant expedited review for Pozi. Defendants refused to produce any documents or other discovery into any issue which did not expressly address: (i) Pozi's comparators the FDA would use for purposes of achieving expedited review; (ii) the efficacy of the then-available therapies that competed with Pozi; (iii) the level of efficacy necessary for Pozi to achieve FDA approval; and (iv) Defendants' public statements on May 3, 2018, May 16, 2018, and December 19, 2018.

41. On February 4, 2025, as the parties continued to meet and confer concerning the scope of discovery, Plaintiff served its First Set of Requests for Admission to all Defendants and First Set of Interrogatories to all Defendants. In much the same fashion, Defendants refused to provide any information unless it related to one of their four enumerated issues and fell within the

February 1, 2018 to December 31, 2018 time period. Specifically, Defendants refused to respond to Plaintiff's interrogatories concerning: (i) the identities of third party clinicians who communicated with Spectrum regarding the ZENITH20 trial; or (ii) the Spectrum employees who communicated with ZENITH20 clinical trial sites.

42. At the time of the Settlement, negotiations to obtain documents responsive to Plaintiff's discovery requests remained ongoing and unresolved. Plaintiff expended significant time reviewing, organizing, and analyzing the discovery issues, and was prepared to immediately compel further responses if the mediation failed.

**D. Mediation and Settlement**

43. The Court's Motion to Dismiss Order instructed the parties to hold a settlement conference with Magistrate Judge Brenda Weksler, which was subsequently scheduled for January 22, 2025. ECF 116.

44. Prior to the January 22, 2025 settlement conference, however, the parties agreed to conduct a private mediation on March 20, 2025. The parties filed a Joint Motion to Abate Settlement Conference and Amend Scheduling Order on January 9, 2025 (ECF 126), which Judge Weksler granted on January 10, 2025. ECF 128.

45. In preparation for the March 20, 2025 mediation, Plaintiff and Defendants each submitted and exchanged opening and reply mediation statements with exhibits, supporting their respective positions and assessments of the risks of continuing litigation. Both parties focused their briefing on the risks and benefits of further litigation, and each articulated their competing views regarding the scope of the case, and the impact the scope had on recoverable damages. The parties also discussed the limited financial resources available to Assertio, which acquired Spectrum, along with the amount Assertio had already spent on the Litigation and expected to expend moving forward. At the time settlement was reached, Assertio stock traded at around $0.70 per share, was valued at $68.8 million by market capitalization, and had only approximately $88 million in cash and cash equivalents, with a quarterly burn rate of approximately $8.03 million. As expected, Assertio's resources have continued to dwindle following the Settlement. At the time of this filing, Assertio stock trades at $0.81 per share, has a market capitalization of $77.4 million, and has $47.1 million in

cash and cash equivalents. Defendants noted that they expected to successfully oppose Plaintiff's efforts to certify the Class, including because – in their narrow view of the case – the December 2018 disclosure did not "match" the remaining alleged false and misleading statements. Defendants also expressed their intention to file an early motion for summary judgment, attacking loss causation on similar grounds.

46. The mediation with Mr. Murphy of Phillips ADR took place on March 20, 2025. The parties engaged in good-faith negotiations but did not reach a settlement that day, but following additional settlement discussions with Mr. Murphy, the parties received a mediator's proposal on March 24, 2025 to settle the Litigation in return for a cash payment of $15.95 million, which the parties each accepted on March 26, 2025. The parties agreed to the Settlement subject to the negotiation of non-monetary terms and Court approval.

## IV. RISKS OF CONTINUED LITIGATION

47. At the time of the Settlement, Lead Counsel had a thorough understanding of the issues and risks present in this case.

48. Plaintiff believed it could continue to successfully litigate the action and compile supporting evidence. At the time of the Settlement, support for Plaintiff's claims included:

(a) This Court determined that Plaintiff had properly alleged that Turgeon, Riga, and Lebel each made materially misleading statements related to: (1) the efficacy of existing treatments; (2) the target for FDA approval; and (3) baseless optimism for final approval of Pozi. ECF 116 at 13-17, 20-23.

(b) This Court determined that Turgeon's scienter was adequately alleged, given his trading in Spectrum common stock during the Class Period and the timing of his exit from the Company. ECF 116 at 29-30.

(c) This Court determined that Plaintiff had properly alleged §20(a) control person claims against Turgeon, Riga, Lebel, and Gustafson for their role in Spectrum's fraud against investors. ECF 116 at 31.

(d) This Court determined that Plaintiff had properly alleged §20A insider trading claims against Turgeon, Riga, Lebel, and Gustafson based on their trading in Spectrum common stock contemporaneously with Plaintiff. ECF 116 at 31.

49. Plaintiff believes that continued discovery likely would have corroborated the allegations and supported resolution in favor of the Class.

50. At the same time, there were considerable risks and uncertainties if the case continued. At the time the Settlement was reached, the most significant risks to recovery for the Class included the following:

(a) The risk that Class Members would not be able to recover any damages with respect to any claim, due to limited and diminishing insurance proceeds and Spectrum's acquisition by Assertio, which faces extreme financial challenges, including a substantial risk of insolvency.

(b) The risk that Defendants would prevail on their efforts to limit discovery to an 11-month period in 2018, involving only a narrow list of discoverable issues.

(c) The risk that discovery would reveal information and documents supporting Defendants' defenses, and undermining Plaintiff's theory of the case.

(d) The risk that Defendants would prevail in their effort to narrow the list of corrective disclosures to a single event in December 2018, thereby substantially limiting the amount of recoverable of damages.

(e) The risk that Defendants would prevail in opposing Plaintiff's motion for class certification based on their purported "mismatch" theory.

(f) The risk that Defendants would prevail at summary judgment or trial by establishing that the statements they made were not materially false or misleading.

(g) The risk that Defendants would prevail at summary judgment or trial by establishing that they had not acted with scienter when they made the material misstatements and omissions. For example, Defendants contended throughout the Litigation that they had no visibility into clinical trial data and, therefore, did not know about the problems with Pozi's efficacy and safety before the results were announced publicly.

(h) The risk that damages would not be awarded or would be limited based on Defendants' arguments that other causes resulted in the declines in the price of Spectrum's common stock.

(i) The risk that expert testimony or important factual evidence would be limited or excluded.

(j) The risk that a "battle of the experts" would fall in Defendants' favor, with the jury finding Defendants' experts more credible, undermining Plaintiff's ability to prove the elements of its claims or establish damages.

51. In summary, while Plaintiff was optimistic that it would continue to develop strong evidence and support that evidence with credible expert opinions, it faced both factual and legal challenges in presenting this matter to a jury, and practical risks with respect to collecting on any favorable judgment. Lead Counsel and Plaintiff carefully considered these risks before accepting the mediator's proposal.

## V. NATURE AND ADEQUACY OF SETTLEMENT

52. The proposed Settlement was the result of arm's-length negotiations between zealous advocates on both sides and could not have been reached without the substantial participation and assistance of a capable mediator with extensive experience in negotiating the resolution of actions of this type. In the estimation of Lead Counsel, the compromise embodied in the stipulation with Defendants represents a successful resolution of a complex and risky class action.

### A. History of Settlement Negotiations

53. Zealous settlement discussions occurred at an all-day, formal mediation with Mr. Murphy on March 20, 2025. Additionally, following the formal mediation, the parties participated in teleconferences with Mr. Murphy concerning their respective settlement positions. The settlement discussions were led by Darren J. Robbins and the undersigned, both of whom have considerable experience in litigating and resolving complex class action lawsuits. The lead negotiators on the defense side had similar substantial experience and included Kevin Sadler and John Lawrence of Baker Botts L.L.P. During the mediation, Lead Counsel advocated for Plaintiff's position by

explaining the strengths of the case to Mr. Murphy, and addressing counter-arguments from Defendants.

54. Throughout the March 20, 2025 mediation session, the parties' respective assessments of the strengths and weaknesses of the case widely differed, and no settlement was reached. Nevertheless, the substantive discussions about the strengths and weaknesses of the case in the presence of Mr. Murphy laid the groundwork for continuing conversations and negotiations.

55. Following the mediation session, the parties continued settlement discussions through Mr. Murphy. On March 24, 2025, Mr. Murphy offered a mediator's proposal to both sides proposing a settlement of the Litigation in exchange for a cash payment of $15.95 million. The parties accepted the mediator's proposal on March 26, 2025, and thereafter notified the Court of the proposed Settlement. *See* ECF 129.

**B. Preliminary Approval Order**

56. On May 9, 2025, Plaintiff filed its unopposed motion for preliminary approval of the Settlement, along with the Stipulation. ECF 130-131. The preliminary approval motion also sought certification of the Class for settlement purposes, approval of the form and manner of notice to the Class, and the scheduling of the Settlement Hearing. ECF 130.

57. On June 11, 2025, the Court held a hearing in which it posed questions to the parties about the proposed Settlement. Following the hearing, on June 16, 2025, the Court issued an Order (ECF 138), which:

(a) preliminarily approved the Settlement;

(b) certified the Litigation as a class action for settlement purposes and preliminarily certified International Trading Group, Inc. as Class Representative and Robbins Geller as Class Counsel;

(c) with respect to the Class, the Court preliminarily found that, for settlement purposes, the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure were satisfied;

(d) scheduled the Settlement Hearing for October 20, 2025, at 10:00 a.m. "to determine: [i] whether the proposed Settlement of the Litigation on the terms and conditions

provided for in the Stipulation is fair, reasonable, and adequate to the Class and should be approved by the court; [ii] whether a Judgment, as provided in ¶1.13 of the Stipulation, should be entered; [iii] whether the proposed Plan of Allocation is fair, reasonable, and adequate and should be approved; [iv] the amount of fees and expenses that should be awarded to Lead Counsel and Lead Plaintiff; and [v] any such other matters as the court may deem appropriate" (*id.*, ¶6);

(e) appointed Verita Global as the Claims Administrator to oversee the notice procedure and process claims; and

(f) approved the form and content of the Postcard Notice, Notice, Summary Notice, and the Proof of Claim and the methods for providing notice.

58. Upon final approval of the Stipulation and Settlement by the Court and entry of a judgment that becomes a final judgment, the Net Settlement Fund will be distributed according to the Plan of Allocation (described below) on a *pro rata* basis to Authorized Claimants with a recoverable loss of more than $10 based on each Authorized Claimant's Recognized Claim. Further terms of the Settlement are set forth in the Stipulation. A summary of the Settlement was set forth in the Notice.

59. Following the Court's preliminary approval order, Spectrum timely paid the $15.95 million Settlement Amount by wire transfers on June 27, and July 1, 2025. That sum has been earning interest on behalf of the Class.

### C. The Settlement Is in the Best Interests of the Class and Warrants Final Approval

60. Plaintiff believes it would have prevailed on the merits of the case but acknowledges there was a very real risk, as discussed above, that the Class would not prevail at trial. The Class faced a substantial risk that the company that acquired Spectrum, Assertio, would become insolvent or not have enough funds to satisfy a judgment in Plaintiff's favor. Even if Defendants had the funds to pay a judgment, Plaintiff risked losing the case before trial at summary judgment and faced the additional pretrial risk that its experts would be excluded following *Daubert* motions. Had Plaintiff's case successfully reached trial, the Class faced the risk that a jury would find Defendants' statements inactionable or would not be convinced Defendants engaged in a scheme to defraud or

acted with the requisite scienter. There were also risks that the jury would reduce the damages awarded or find that Defendants had not caused the Class any damage. Furthermore, even if Plaintiff prevailed at trial and Defendants possessed the resources to fund a judgment, post-trial proceedings and appeals could have significantly delayed any recovery to the Class in a case that has already been pending for four years.

61. Having considered the foregoing, and evaluating Defendants' likely defenses at trial, it is my informed judgment, based upon the Litigation to date and the extensive experience of Lead Counsel in litigating shareholder class actions, that the proposed settlement of this matter for a payment of $15.95 million in exchange for a mutual release of all claims and on the other terms set forth in the Stipulation, provides fair, reasonable, and adequate consideration and is in the best interest of the Class. Notably, not a single objection has been filed to date.

## VI. PLAN OF ALLOCATION[8]

62. The Net Settlement Fund will be distributed to Class Members who, in accordance with the terms of the Stipulation, are entitled to a distribution and who submit a valid and timely Proof of Claim. Class Members' claims will be calculated under the Plan of Allocation set forth in the Notice. The proposed Plan of Allocation was created by Lead Counsel with the assistance of an experienced forensic economic and damages expert, Matthew Cain, Ph.D. The Plan of Allocation is intended to fairly apportion the net proceeds of the Settlement based on the inflation and subsequent declines in Spectrum common stock price attributable to the alleged fraud as of the date of a Class Member's purchases or acquisitions and sales of Spectrum common stock.

63. The Plan of Allocation estimates the amount of alleged artificial inflation in the prices of Spectrum common stock that was proximately caused by Defendants' alleged scheme and materially false and misleading statements and omissions. In calculating the estimated artificial inflation, Lead Counsel considered price changes in Spectrum common stock related to the

[8] The summary of the Plan of Allocation provided herein is intended only to explain the basis on which the plan was developed in order to assist the Court in evaluating the fairness, reasonableness, and adequacy of the proposed Settlement. Nothing set forth herein is intended to, or does, modify or affect the interpretation of the Plan of Allocation, which is set forth in full in the Notice and will be applied by the Claims Administrator according to its express terms.

respective alleged misrepresentations and omissions and adjusted the price change for factors that were attributable to market or industry forces and for non-fraud-related Spectrum-specific information, if any.

64. Using the determinations of the amount of inflation in Spectrum's stock price at different points during the Class Period, the Plan of Allocation apportions damages to Class Members based on the difference between the amount of inflation on the date they purchased or acquired their securities and the date they sold them, or as of November 3, 2021 (the expiration of the 90-day "lookback period"), if the shares were retained as of that date. To be eligible for a recovery, the shares must have been purchased or acquired prior to, and sold after, the earliest of the corrective events. Class Members who realized a net gain in their overall transactions in Spectrum common stock during the Class Period will not be entitled to recovery.

65. Lead Counsel also weighted the damages calculation based on when shares were purchased or otherwise acquired in order to account for the varying likelihood of recovery in this Litigation. Shares acquired during the time period that undisputedly survived Defendants' motion to dismiss will get a full apportionment of damages. Shares purchased during the time period in which Plaintiff and Defendants disagree about whether claims survived the motion to dismiss will receive a 50% apportionment of damages. Shares acquired during the time period that was indisputably dismissed from the case (subject to amendment or appeal) will receive a 10% apportionment of damages.

66. Based on Lead Counsel's experience in this and other securities actions, its understanding of the factual circumstances giving rise to this action, and the risks of continued litigation, including the risks as to both liability and damages, Lead Counsel believes the Plan of Allocation set forth in the Notice provides a fair, reasonable, and adequate method of compensating Class Members for the economic harm they suffered as a result of the fraud alleged in the Litigation.

## VII. LEAD COUNSEL'S APPLICATION FOR ATTORNEYS' FEES AND EXPENSES IS REASONABLE

67. The successful prosecution of this Litigation required Lead Plaintiff's Counsel and their staff to perform over 4,900 hours of work and incur more than $146,600 in expenses, as

detailed in the accompanying declarations in support of the application for an award of fees and expenses. Based on the extensive efforts on behalf of the Class, as described above, I also submit that Lead Counsel's request for an award of attorneys' fees, on behalf of Lead Plaintiff's Counsel, equal to 30% of the Settlement Amount, plus interest, is fair, reasonable, and should be approved.

68. Lead Counsel believes the percentage method is the appropriate method of fee recovery because, *inter alia*, it aligns the attorneys' interest in obtaining a fair fee with the Class's interest in achieving the maximum recovery in the shortest amount of time required under the circumstances. As set forth in the accompanying memorandum in support of Lead Counsel's application for an award of attorneys' fees and expenses ("Fee Memorandum"), courts throughout the Ninth Circuit have applied the percentage-of-recovery method in awarding fees. Lead Counsel believes the percentage sought in this case is reasonable in light of the effort required and the results obtained.

**A. The Requested Fee Is Reasonable**

**1. The Results**

69. Considering the nature and extent of the Litigation, the diligent prosecution of the action, the complexity of the factual and legal issues presented, and the other factors described above, and as stated in the accompanying Fee Memorandum, Lead Counsel believes the requested fee of 30% of the Settlement Fund is fair and reasonable.

70. A 30% fee award is well within percentages awarded by courts in this District and throughout the Ninth Circuit and is justified by the specific facts and circumstances in this case and the substantial risks Plaintiff had to overcome at the pleadings stage of the Litigation, and to prepare to overcome at trial, as set forth herein.

**2. The Requested Fee Is Supported by Plaintiff**

71. Plaintiff actively monitored the Litigation and consulted with Lead Counsel during the course of settlement negotiations. Plaintiff spent considerable time and effort fulfilling its duties and responsibilities in this case, including reviewing briefs, and consulting with Lead Counsel concerning the merits of the Litigation. As a result, Plaintiff developed an understanding of the

strengths and weaknesses of this case, the risks of continued litigation, and the nature and extent of Lead Counsel's efforts on behalf of the Class.

72. As reflected in the accompanying Declaration of John T. McGann ("McGann Decl.") on behalf of International Trading Group, Inc., Plaintiff believes the requested fee is fair and reasonable in light of the result achieved and supports the award of Lead Counsel's requested fee.

**3. The Requested Fee Is Supported by the Effort Expended and Results Achieved**

73. As set forth herein, the $15.95 million cash settlement was achieved as a result of extensive and creative prosecutorial and investigative efforts, which uncovered the alleged Pozi-related fraud that was upheld by the Court. The Rolontis claims from the original complaint were dismissed outright, meaning that the Class would have recovered nothing without Plaintiff and Lead Counsel's extraordinary efforts. Plaintiff went on to complete two rounds of complicated motion to dismiss practice; extensive hearing preparation; intense pursuit and negotiation of discovery; and hard-fought mediation, including written submissions and in-person negotiations.

74. As discussed in greater detail above, this case was fraught with significant risk factors concerning liability and damages. Plaintiff's success was by no means assured. Defendants disputed whether the alleged false statements were even actionable, disputed that investors were misled, denied any knowledge or awareness of the misleading nature of their statements, and sought to attribute any harm suffered to non-fraud factors. Were this Settlement not achieved, it is possible Plaintiff would not have been successful on the merits at trial or that a jury could have found no liability or damages. Plaintiff also faced the exceptionally high risk it would be unable to collect on a sizeable judgment against Defendants. Even if Plaintiff prevailed at trial, Plaintiff and the Class likely faced years of costly and risky appellate litigation against Defendants with ultimate success far from certain, at which point available funding for any recovery to the Class would be even more uncertain.

75. As a result of this Settlement, thousands of Class Members will benefit and receive compensation for their losses and avoid the very substantial risk of no recovery in the absence of a settlement. These risk factors also support Lead Counsel's request for 30% of the Settlement Fund.

**4. The Risk of Contingent Class Action Litigation Supports the Requested Fee Award**

76. As set forth in the accompanying Fee Memorandum, a determination of a fair fee should include consideration of the contingent nature of the fee, the financial burden by Lead Counsel, and the difficulties Lead Counsel overcame to obtain the Settlement.

77. This Litigation was prosecuted by Lead Counsel on an "at-risk" contingent fee basis. Lead Counsel fully assumed the risk of an unsuccessful result. Lead Counsel has received no compensation for its services during the course of this Litigation and has incurred very significant expenses in litigating for the benefit of the Class. Any fees or expenses awarded to Lead Counsel have always been at risk and are completely contingent on the result achieved. Because the fee was entirely contingent, Lead Counsel knew and accepted that it would receive no fee without a successful result, and a successful result could take years of difficult work to achieve.

78. Lead Counsel's efforts were performed on a wholly contingent basis despite significant risk in the face of determined opposition. Under these circumstances, Lead Counsel is justly entitled to the award of a reasonable percentage fee based on the benefit conferred and the common fund obtained. Under all circumstances present here, a 30% fee plus expenses is fair and reasonable.

79. There are numerous cases, including many handled by my firm, where lead counsel agreed to litigate the matter on a contingent fee basis and, after expenditure of thousands of hours of time and significant out-of-pocket costs, received no compensation whatsoever. The losses suffered by lead counsel in other actions where insubstantial settlement offers were rejected, and where lead counsel ultimately received little or no fee, should not be ignored. Lead Counsel knows from personal experience that, despite the most vigorous and competent of efforts, attorneys' success in contingent litigation is never assured.

80. Lawsuits such as this are expensive to litigate. Those unfamiliar with the efforts required to litigate class actions often focus on the aggregate fees awarded but ignore the fact that those fees fund enormous overhead expenses incurred over the course of many years of litigation,

are taxed by federal and state authorities, are used to fund the expenses of other contingent cases prosecuted by Lead Counsel, and help pay the monthly salaries of the firms' attorneys and staff.

**5. The Standing and Expertise of Lead Counsel**

81. Lead Counsel is among the most experienced and skilled securities litigation law firms in the field, as illustrated by Lead Counsel's firm biography attached as Exhibit E to the accompanying Declaration of Jeffrey J. Stein Filed on Behalf of Robbins Geller Rudman & Dowd LLP in Support of Application for Award of Attorneys' Fees and Expenses. Indeed, Lead Counsel has consistently obtained significant recoveries for defrauded investors, including in: *In re Enron Corp. Sec. Litig.*, No. H-01-3624 (S.D. Tex.) (recovering in excess of $7.2 billion for investors); *Jaffe v. Household Int'l, Inc.*, No. 02-C-05893 (N.D. Ill.) (largest securities class action settlement following a trial: $1.575 billion); *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, No. 3:15-cv-07658 (D.N.J.) (largest pharmaceutical securities class action settlement ever: $1.2 billion); *In re Am. Realty Cap. Props., Inc., Litig.*, No. 1:15-mc-00040 (S.D.N.Y.) (recovering $1.025 billion for investors); *In re UnitedHealth Group, Inc. PSLRA Litig.*, No. 06-CV-1691 (D. Minn.) (recovering over $925 million); *In re Twitter Inc. Sec. Litig.*, No. 4:16-cv-05314 (N.D. Cal.) ($809.5 million recovery); *In re Apple Inc. Sec. Litig.*, No. 4:19-cv-02033 (N.D. Cal.) ($490 million recovery); *In re Alphabet, Inc. Sec. Litig.*, No. 18-cv-06245 (N.D. Cal.) ($350 million recovery).

82. The quality of work Lead Counsel provided in attaining the Settlement should also be evaluated in light of the quality of opposing counsel in this Litigation. Over the course of the Litigation, Defendants were well represented by a team of attorneys from Baker Botts L.L.P. and Pisanelli Bice PLLC. Faced with knowledgeable, experienced, and formidable opposing counsel, Lead Counsel was nonetheless able to withstand multiple dismissal attempts and still persuade Defendants to settle the Litigation for $15.95 million.

**6. The Class's Reaction to Date**

83. The Notice advises the Class that Lead Counsel intends to request an award of attorneys' fees in an amount not to exceed 30% of the Settlement Amount, plus interest, and for payment of litigation expenses not to exceed $200,000, plus interest. *See* accompanying Declaration of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion

Received to Date, Ex. B (Notice at 3). The Notice provided Class Members until September 29, 2025 to submit objections to Lead Counsel's fee and expense application.

84. While the time to object to the fee and expense application has not expired, it is my understanding that to date, no Class Members have objected to any aspect of the Settlement, demonstrating widespread acceptance of the deal and its terms. Should any timely objections be received, Lead Counsel will address them in its reply briefing.

**B. Application for Litigation Expenses and Charges**

85. In addition to fees, Lead Plaintiff's Counsel request $146,683.19 for expenses and charges reasonably and necessarily incurred in prosecuting Plaintiff's claims for the past four years. Lead Counsel respectfully submits that this amount is appropriate, fair, and reasonable and should be approved.

86. Since 2021, Lead Counsel has known it may never recover any of the expenses it incurred in prosecuting this case. Lead Counsel also understood that, even assuming the case was ultimately successful, an award of expenses would not compensate it for the lost use of the funds dedicated to this Litigation. Accordingly, Lead Counsel was motivated to, and did, take steps to minimize expenses where practicable without jeopardizing the vigorous and efficient prosecution of this Litigation.

87. As set forth in the Fee Declarations, the expenses, charges, and costs incurred were necessary and appropriate in light of the complex nature of the Litigation and were associated with, among other things, hiring investigators and consultants, service of process, online legal and factual research, and mediation.

88. Plaintiff also seeks an award of $8,250, pursuant to 15 U.S.C. §78u-4(a)(4) in connection with its representation of the Class. Plaintiff dedicated time and resources to monitoring the developments in the Litigation, and participating in settlement negotiations. *See* McGann Decl., submitted herewith.

## VIII. CONCLUSION

89. For all the foregoing reasons, Lead Counsel respectfully requests the Court approve the Settlement and Plan of Allocation of Settlement proceeds; approve the fee and expense

application; award Lead Counsel 30% of the Settlement Amount plus $146,683.19 in expenses, as well as the interest earned on both amounts at the same rate for the same period as that earned on the Settlement Fund until paid; and approve the award of $8,250 to Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4).

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 15, 2025, at San Diego, California.

JEFFREY J. STEIN