

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOV 8 2016 ★

LONG ISLAND OFFICE

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

HOWARD BRETT BERGER,

Defendant,

MICHELLE BERGER,

Relief Defendant.

12-CV-4728
(LDW-ARL)

ECF CASE

~~PROPOSED~~ **ORDER FOR DISTRIBUTION OF FAIR FUND**

The Court, having reviewed the Securities and Exchange Commission's ("SEC") Second Motion for Order for Distribution of Fair Fund and the supporting Affidavit of the Distribution Agent, and for good cause shown,

IT IS HEREBY ORDERED:

1. The SEC shall issue a check to the Distribution Agent, Simon Consulting, LLP, from the Commission's account under the case name designation "*SEC v. Howard Brett Berger, et al.*" for all of the funds in the Commission's accounts representing the SEC v Berger Distribution Fund ("Fair Fund" or "Fund"), totaling approximately \$687,357.86; and
2. The Commission shall send the check by overnight mail to:

Simon Consulting, LLC

3200 North Central Avenue
Suite 2460
Phoenix, AZ 85012

3. The Distribution Agent shall distribute these funds to Eligible Investors pursuant to the final payee list in accordance with the terms of the Distribution Plan.

DATED: Nov. 8, 2016

5/LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE
LEONARD D. WEXLER