

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GLOBAL MANAGEMENT WORLDWIDE :
LIMITED, :

Plaintiff, :

-against- :

PHILIP R. BENNETT et al., :

Defendants. :

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GLOBAL MANAGEMENT WORLDWIDE :
LIMITED, :

Plaintiff, :

-against- :

BAWAG P.S.K. BANK FUR ARBEIT UND :
WIRTSCHAFT UND OSTERREICHISCHE :
POSTARKASSE AKTIENGESELLSCHAFT :

Defendant. :

06 Civ. 643 (GEL)

06 Civ. 3347 (GEL)

ORDER

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GERARD E. LYNCH, District Judge:

In the above-captioned putative class actions, plaintiff Global Management Worldwide Limited (“GMWL”) seeks to represent a class defined as “all brokerage customers of Refco Capital Markets, Ltd. (“RCM”) who, at any time from October 17, 2000 to October 17, 2005 . . . entrusted securities to RCM and/or Refco Securities LLC (“RSL”), directly or indirectly, as custodian and broker for safe-keeping, and continued to hold positions with RCM on October 17, 2005 or thereafter.” (Pl. Mem. 1.) This action is separate from, but related to, the class action relating to alleged fraud committed by Refco, Inc. in advance of Refco, Inc.’s August 2005 initial public offering, an action that is also pending before this Court. (See In re Refco, Inc. Securities Litigation, 05 Civ. 8626.)

On January 26, 2006, GMWL filed the complaint in Global Management Worldwide Limited v. Bennett et al., 06 Civ. 643. Four days later, on January 30, 2006, GMWL published notice of the action as required by 15 U.S.C. § 78u-4(a)(3)(A)(i). (See Strauss Decl. Ex. B.) After the filing of the notice, members of the putative class had sixty days in which to file motions for appointment as lead plaintiff. 15 U.S.C. § 78u-4(a)(3)(A)(i)(II). On March 31, 2006, GMWL, along with its affiliates Arbat Equity Arbitrage Fund Limited and Russian Investors Securities Limited (collectively, “GMWL Group”), moved for appointment as lead plaintiffs. The GMWL Group was the only movant within the sixty-day period, and remains the only movant to date.

On May 1, 2006, plaintiff filed the complaint in Global Management Worldwide Limited v. Bawag P.S.K. Bank Fur Arbeit Und Wirtscraft Und Osterreichische Postarkasse Aktiengesellschaft, 06 Civ. 3347. The complaint sets forth virtually the same allegations as those set forth in Global Management Worldwide Limited v. Bennett et al., 06 Civ. 643, with the addition of allegations relating to defendant Bawag’s role in the alleged fraud. No other related actions have been brought to the Court’s attention.

The GMWL Group’s motion for appointment as lead plaintiff is the only such motion the Court has received, and no party has filed an opposition to the GMWL Group’s motion. In any event, the Court notes that the GMWL Group appears to satisfy the PSLRA’s criteria concerning the appointment of a lead plaintiff. The PSLRA creates a presumption in favor of the appointment of the movant that has “the largest financial interest in the relief sought by the class.” 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(bb). While no information exists concerning the relief sought by other potential lead plaintiffs, the GMWL Group claims losses exceeding \$46 million, an amount large enough to ensure party-controlled, as opposed to lawyer-controlled, litigation. (See Strauss Decl. Ex. D.) Additionally, the PSLRA prefers the appointment of named plaintiffs with claims typical of the class and who will adequately represent the class’s interests. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(cc). The GMWL Group meets both criteria. The claims of the GMWL Group appear to be typical of the class as a whole, and by filing the two complaints and securing competent counsel, the GMWL Group appears to be adequate in its representation.

Accordingly, it is hereby ordered that:

1. Pursuant to Fed. R. Civ. P. 42(a), the above-captioned actions are consolidated for all purposes.
2. The Court requests the assistance of counsel in calling to the attention of the Clerk of the Court the filing or transfer of any case that might properly be consolidated as part of this litigation.
3. Every pleading filed in this consolidated action shall bear the following caption:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO CAPITAL MARKETS, LTD.      :
BROKERAGE CUSTOMER SECURITIES        :           06 Civ. 643 (GEL)
LITIGATION                             :
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4. Pursuant to 15 U.S.C. § 78u-4(a)(3)(B), the GMWL Group is appointed Lead Plaintiff in this consolidated securities action.

5. The Court approves the Lead Plaintiff's selection of Kirby McInerney & Squire, LLP as Lead Counsel for the class in this consolidated securities action.

6. Plaintiff shall file a consolidated amended complaint no later than September 5, 2006.

7. Defendants shall have no obligation to answer or otherwise respond to the complaints currently pending in the above-captioned actions.

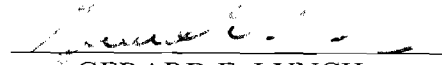
8. Defendants shall answer or otherwise respond to the consolidated amended complaint by November 6, 2006.

9. Pursuant to the Court's Individual Practice Rules, courtesy copies of motions or responses need not be provided to chambers at the time of filing. When the reply or replies are served and filed, defendants shall supply two courtesy copies of all motion papers to chambers.

10. In issuing this order, the Court makes no ruling and expresses no opinion on any class certification issues.

SO ORDERED.

Dated: New York, New York
July 7, 2006


GERARD E. LYNCH
United States District Judge