SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

IN RE RENREN, INC.	:	Index No. 653594/2018
	:	Hon. Andrew Borrok
DERIVATIVE LITIGATION	:	Mot. Seq. No. 021

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR APPROVAL OF THE PROPOSED SETTLEMENT AND AN AWARD OF ATTORNEYS' FEES AND EXPENSES

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PRELIMINARY STATEMENT

Plaintiffs obtained the proposed Settlement,[1] documented in the Stipulation of Settlement filed on October 7, 2021 [NYSCEF No. 753] (the "**Stipulation**"), after expending significant efforts investigating the potential claims and bases for jurisdiction and then spending over three years litigating complex issues involving Cayman law and jurisdiction, a First Department appeal, eight fully briefed motions to dismiss, voluminous discovery, a critical and creative attachment motion, and finally, mediations and extensive settlement negotiations that spanned months.

The Settlement is a remarkable achievement by any measure in a shareholder derivative case. The Settlement requires Defendants to pay ***at least*** $300 million, which far outstrips the direct cash payment to minority shareholders in any prior derivative case settlement in this State or anywhere in the nation. Under the negotiated "direct pay" structure of the Settlement, all net settlement proceeds will be paid directly to Renren's minority shareholders and ADS holders; the Defendants and certain other present and former Renren directors and officers (the "**D&O Releasees**") are expressly barred from obtaining any Settlement proceeds.

Because the excluded Defendants and D&O Releasees own over two-thirds of Renren's shares, the "direct pay" Settlement here is the equivalent—from the minority shareholders' perspective—to the company settling for ***$955 million***.[2] The Settlement is not just an extraordinary recovery in absolute terms: it represents the vast majority (at least 87%) of Renren's net loss in the Transaction under a "best-case" scenario at trial, and it exceeds Renren's recoverable loss under other scenarios. And in addition to economic relief, Plaintiffs secured meaningful corporate

[1] Capitalized terms apply definitions in the Stipulation or Plaintiffs' current pleading. NYSCEF No. 405.

[2] If the Court awarded a company-level award after trial, then the total settlement fund would have been larger and Plaintiffs' counsels' fee—in absolute terms—likely would have been larger too.

governance reforms to protect Renren and its minority shareholders in the future, reforms which likely would have been unavailable without a settlement.

The exceptional result Plaintiffs achieved is also noteworthy given the numerous factual and legal challenges they overcame in this novel, cross-border litigation. Plaintiffs built this case from scratch, as they could not build on any governmental or regulatory investigation or parallel class litigation. It is exceedingly difficult for shareholders to demonstrate standing to bring derivative claims under Cayman law because, with narrow exceptions, only the company itself can sue for breaches of fiduciary duties owed to the company.

Moreover, the need to obtain personal jurisdiction over Defendants scattered across the globe made it much harder to withstand threshold dispositive motions. Yet, Plaintiffs overcame these initial hurdles by defeating four motions to dismiss, thereby establishing personal jurisdiction and derivative standing as to the original Defendants in victories that the First Department unanimously affirmed on appeal. Armed with these rulings and the fruits of discovery, Plaintiffs then added SoftBank and SoFi as parties, which expanded the army of defense lawyers and added complexity, including new rounds of motions to dismiss.

Since then, Plaintiffs have briefed additional motions to dismiss, undertaken further discovery, secured a pivotal pre-judgment attachment, and engaged in protracted negotiations with the many Defendants. The multitude of premier law firms representing Defendants fought tooth and nail to prevent Plaintiffs from recovering for the substantial harm Renren suffered. In sum, arriving at this point was no easy task. And without this Settlement, the road ahead would have entailed significant delays, appeals, and uncertainties.

Against that backdrop, the proposed Settlement is a resounding victory for Renren and its minority shareholders, and this Court should approve it under BCL §626(d). In addition, the Court

should approve Plaintiffs' counsels' fee request. Plaintiffs' counsel, who had over 20 lawyers spend significant time on a contingent basis for several years, request attorneys' fees of 33% of the fund created to distribute cash to Renren's shareholders through the Settlement. The requested fee is appropriate because of the great effort and risk that four law firms undertook to obtain the historic result that counsel achieved in an extremely complex and difficult case. And Plaintiffs supporting the fee request include Renren's largest (non-Defendant) minority shareholder, who holds approximately 16% of Class A ordinary shares and ADSs and approximately 11.6% of the company (or over one-third of the entire minority interest).

STATEMENT OF FACTS

A. The Claims at Issue

Renren is a Cayman Islands company with its principal place of business in Beijing, China. Renren initially listed ADSs on the New York Stock Exchange in 2011, raising approximately $777 million, which it used to make venture capital-style investments in portfolio companies (most notably, SoFi) and investment funds. In the June 2018 Transaction that prompted this suit, the Controlling Stockholders took Renren's interests in 44 portfolio companies and 6 investment funds for themselves through OPI. In exchange for the billion-dollar investment portfolio it lost, Renren received only approximately $183 million in consideration, comprised of $25 million in cash, a $90 million note from OPI, and OPI's assumption of approximately $58 million in third-party debt.

Plaintiffs' claims center on the Transaction. Plaintiffs alleged that two of Renren's directors, Chen and Chao, breached their fiduciary duties and thereby harmed Renren through the Transaction. Plaintiffs also brought claims for aiding and abetting breach of fiduciary duty and similar dishonest assistance claims under Cayman law against Duff & Phelps, the SoftBank Defendants, and the DCM Defendants. Finally, Plaintiffs asserted a knowing receipt claim under Cayman law against OPI and alter ego claims against OPI's wholly owned subsidiaries.

After Plaintiffs filed suit, OPI transferred certain interests in SoFi stock to SoFi and/or certain of the SoftBank Defendants. Plaintiffs asserted fraudulent conveyance claims under New York's Debtor & Creditor Law to avoid the transfers and recover their value.

B. History of the Litigation

When the Transaction was about to close, Oasis and Heng Ren were working on options to challenge the Transaction. Oasis and Heng Ren engaged Reid Collins, which devised a legal strategy from square one, coming up with a jurisdictional hook to sue Chen and Chao in New York. Reid Collins also used its experience with cross-border litigation, including claims brought under Cayman law, to identify a path for minority shareholders to establish standing to sue on Renren's behalf in New York. This required extensive work with Cayman and English law experts. Similarly, Gardy & Notis in 2017 began investigating the apparent plan to siphon off Renren's investment portfolio after an investor contacted the firm.

After Renren announced the Transaction, Gardy & Notis teamed with Grant & Eisenhofer, which had substantial experience litigating under Cayman law, to investigate and pursue a derivative action for Arama in New York state court. This case began as just an embryonic idea because there was little guiding precedent from New York courts upholding derivative standing to pursue such claims. In fact, the only prior Cayman derivative case decided by a New York appellate court rejected derivative standing. *See Davis v. Scottish Re Gp. Ltd.,* 160 A.D.3d 114, 115-18 (1st Dep't 2018). Further complicating Plaintiffs' task, there was no parallel litigation or regulatory investigation involving the Transaction to build on.

1. Plaintiffs Overcame Substantial Obstacles Early in the Case.

On July 19, 2018, Heng Ren and Oasis, through Reid Collins, filed a Complaint asserting derivative claims on behalf of Renren against Chen and Chao relating to the Transaction. Counsel immediately encountered their first obstacle—finding and serving Chen. Following extensive

efforts to serve Chen, with help from private investigators, Plaintiffs sought and obtained leave to use alternative methods of service. NYSCEF Nos. 17, 18. In December 2018, Arama filed her own derivative complaint, which asserted claims against alleged accessory wrongdoers (the DCM Defendants and Duff & Phelps) in addition to claims against Chen and Chao.

In February 2019, the Court consolidated the two actions and appointed Heng Ren, Oasis, and Arama as lead plaintiffs. The Court also appointed Reid Collins, Grant & Eisenhofer, and Gardy & Notis as co-lead counsel. Ganfer Shore Leeds & Zauderer is also part of the group of Plaintiffs' counsel. In March 2019, Plaintiffs filed a 92-page consolidated complaint, which asserted claims on behalf of Renren under both Cayman and New York law. NYSCEF No. 53. The consolidated complaint added detailed allegations about how Chen, Chao, the DCM Defendants, and their fellow Controlling Stockholders used their control to cause Renren to transfer its investments to OPI at an undervalued price, with Duff & Phelps's assistance.

In May 2019, each of the then-four groups of Defendants—including Renren—moved to dismiss. The coordinated motions, filed by several of the nation's largest defense firms, posed two potential roadblocks. First, Defendants, except Duff & Phelps, argued that they could not be sued in New York because they were in China or California when they pushed through the Transaction and because none of the allegations were sufficiently connected to New York conduct to support personal jurisdiction. Second, Defendants argued that Plaintiffs lacked standing because Defendants and their Cayman law experts asked the Court to apply the English rule—adopted by Cayman courts—established by *Foss v. Harbottle*, (1843) 2 Hare 461, which holds that only a company (and not its shareholders) can sue for breach of duty owed to a company. These defenses appeared formidable given that there was no New York case that exercised jurisdiction involving

similar facts, and New York courts had thus far denied standing to assert Cayman derivative claims for similar breaches.

But Plaintiffs overcame both challenges in this Court's May 20, 2020 decision denying the motions. NYSCEF No. 305. That victory resulted from counsel's painstaking research and draftsmanship of the consolidated complaint, which connected the Transaction to the New York financial intermediaries and agents and New York's capital markets. In its decision, the Court accepted Plaintiffs' asserted agency theory for jurisdiction, which subjected all Defendants to the Court's jurisdiction. The Court also adopted Plaintiffs' arguments on derivative standing and applied the "fraud on the minority" exception to the general rule in *Foss v. Harbottle*. This aspect of the decision broke new ground in New York. Defendants appealed both issues—and lost, unanimously. The Court of Appeals denied Defendants' request for a further appeal on these issues.

2. Plaintiffs Amended Their Complaint and Obtained an Order to Attach OPI's Assets.

Once the Court denied the motions to dismiss, Plaintiffs requested documents from Defendants and non-parties. Document discovery was difficult and costly because it required extensive coordination with many groups of Defendants, some of whom had to review their documents, often in their native Mandarin, in China and pass scrutiny under Chinese state secrecy laws before the documents could leave China. Reid Aff. ¶23. Defendants and non-parties produced over 115,000 documents spanning over 792,000 pages, many of which required translation. *Id.* Defendants also produced many audio files that needed translation and transcription. *Id.* ¶67. Lead counsel reviewed the documents themselves (without hiring contract attorneys other than for foreign language translation) so experienced lawyers could make the necessary judgments and strategic decisions given the complex factual, legal, and valuation issues involved. *Id.*

Document discovery soon revealed that OPI had transferred a substantial portion of its SoFi shares during litigation for less than their true value, thereby undermining the best source of Plaintiffs' recovery. Reid Aff. ¶27, 75. Plaintiffs moved to amend their Complaint in February 2021 to attack the fraudulent transfers and seek an injunction against additional transfers. When Plaintiffs obtained still more incriminating documents, they withdrew that motion and moved again to amend in March.

Along with the new claims against OPI's subsidiaries and SoFi arising from the fraudulent transfers, Plaintiffs asserted several claims against the SoftBank Defendants related to the alleged fraudulent conveyances and for aiding and abetting breaches of fiduciary duty in connection with the Transaction. When Plaintiffs filed claims against the SoftBank Defendants and SoFi, two additional well-respected firms joined the fray, leading to more jurisdictional challenges. Reid Aff. ¶¶31-34, 65-66.

The Court permitted the amendment (following the parties' stipulation), and Plaintiffs filed their 147-page amended complaint on March 22, 2021. NYSCEF No. 405. Subsequently, Plaintiffs sifted relentlessly through several rounds of document productions, piecing together a complex factual puzzle that culminated in the 188-page proposed amended pleading submitted in opposition to the SoftBank Defendants' motion to dismiss. Reid Aff. ¶36. The painstaking factual investigation behind that comprehensive pleading was instrumental to achieving the proposed Settlement. *Id.* ¶5.

In April, Plaintiffs moved for an injunction or an attachment against the OPI Defendants to prevent further asset dissipation. NYSCEF No. 408. Plaintiffs prevailed in mid-May and persuaded the Court to enter an Order of Attachment (the "**Attachment Order**"), which granted Plaintiffs' motion for an attachment in the amount of $560 million and stopped the OPI Defendants

from disposing of any further assets, other than paying routine business expenses, without Court approval. NYSCEF No. 549. After the OPI Defendants filed an emergency appeal, the parties negotiated an agreement that restricted the OPI Defendants from transferring assets and required that OPI deposit the proceeds from the sale of any U.S. investments (such as SoFi) into a U.S. escrow account. NYSCEF No. 649.

The Attachment Order was only possible due to Plaintiffs' thorough investigatory efforts, which relatedly caused Chen to apologize and recant parts of his affirmation to this Court and the First Department.[3] Reid Aff. ¶¶4, 37; NYSCEF No. 536. And the investigatory work and creativity that led to the Attachment Order also helped reach the proposed Settlement; the Attachment Order was one of three major steppingstones to resolution (along with Plaintiffs' appellate victory and their amended pleadings). Reid Aff. ¶¶5, 41.

3. The Parties Reached a Novel Settlement After an Extensive Mediation Before a Respected Mediator.

In January 2021, following extensive preparatory efforts, the parties engaged in a two-day mediation session with one of the nation's most prominent mediators, retired United States District Judge Layn Phillips. Reid Aff. ¶¶43-44. The mediation failed. *Id.* Between January 2021 and the next mediation session in late July, the case's landscape changed substantially. In the first half of 2021, the Appellate Division upheld the Court's denial of the dismissal motions, and Plaintiffs obtained the Attachment Order. And after pouring through Defendants' documents, Plaintiffs found many additional documents supporting their claims. *Id.* ¶¶4-5, 37, 67.

The parties mediated again with Judge Phillips on July 23, 2021. Reid Aff. ¶45. The parties did not settle at the July mediation session, but it set the groundwork for continued settlement discussions. *Id.* Over the ensuing months, the parties engaged in grueling settlement negotiations

[3] At that time, Chen was appealing the sufficiency of service and other jurisdictional issues.

overseen by Judge Phillips and his team. *Id.* ¶46. Ultimately, Judge Phillips made a mediator's proposal in early September, which the parties subsequently accepted and eventually (after yet another month of negotiations) memorialized in the Stipulation, filed on October 7, 2021 [NYSCEF No. 753]. *Id.*

Under the Stipulation, the gross Settlement Amount is defined as the "greater of" $300 million or the combined sum of (a) outstanding Renren ADSs held by participating holders multiplied by $38.6866 per ADS and (b) outstanding Renren shares held by participating shareholders multiplied by $0.859701 per Class A ordinary share. Stipulation ¶1.ee. The per-share and per-ADS figures are effectively equal, as each ADS currently represents 45 ordinary shares. The per-share and per-ADS figures were derived based on estimates as of June 30, 2021, of the number of shares and ADSs held by minority shareholders and ADS holders, defined as the "Renren Shareholders" (which excludes Defendants and the D&O Releasees). Reid Aff. ¶¶48-50; Stipulation ¶¶1.aa, 9.

In effect, the "greater of" determination of the Settlement Amount provides a floor to the monetary component to the Settlement if the Renren Shareholders' holdings as of the Record Date differ from the estimate. If the Renren Shareholders' holdings are less than the estimate, then $300 million will be the "greater of" figure and will be the Settlement Amount, thereby increasing the per-ADS and per-share recovery. Alternatively, if the Renren Shareholders' holdings are greater than the estimate, then the "greater of" figure and the Settlement Amount will be $300 million ***plus*** the additional amount (the "**True Up**") necessary to achieve gross pro rata amounts equal to $38.6866 per ADS and $0.859701 per Class A ordinary share. If there is a True Up—and Plaintiffs believe there may well be one—then the total amount Defendants pay will exceed $300 million. Stipulation ¶¶1.jj, 3.

The proposed Settlement contemplates that the Settlement Amount, net of costs, administrative expenses, and any fee and expense award to Plaintiffs' counsel (collectively, the "**Settlement Fund Expenses**") will be paid directly to Renren Shareholders on a pro rata basis after the Record Date. Stipulation ¶¶5-6. Payments to Renren ADS holders will flow through Renren's existing Deposit Agreement, *id.* ¶7, similar to how ADS holders would receive a dividend. The professional settlement administrator, Epiq, will pay Class A shareholders directly as of the Record Date. *Id.* ¶8. Defendants and the D&O Releasees are expressly excluded from the distributions to shareholders or ADS holders. *Id.* ¶¶9-10.

In addition to the significant monetary recovery, the proposed Settlement also requires several meaningful corporate governance reforms. Those reforms, in effect for the next five years, include:

- Renren's directors will certify at least annually that they (a) have reviewed Renren's Code of Business Conduct and Ethics; (b) have complied with it; and (c) have not taken, and will not take, any action that violates its provisions;
- Neither the Chairman of the Renren Board of Directors, if not independent, nor any other Renren corporate officer, will serve as a member of the Corporate Governance and Nominating Committee of the Renren Board of Directors;
- Renren will award director compensation that is comprised of a mix of (i) cash and (ii) deferred equity or equity-linked compensation to align the interests of Renren's directors with Renren's shareholders. All of Renren's directors must hold shares of Renren; and
- Neither Renren nor any Renren board committee may hire Duff & Phelps for any purpose.

Stipulation ¶11.

Under the Stipulation and this Court's Scheduling Order entered October 18, 2021 [NYSCEF No. 755], Renren Shareholders received several forms of notice of the proposed Settlement:

- Renren filed a Form 6-K with the SEC on October 8, 2021, that included a copy of the Stipulation;[4]

- Renren filed a Form 6-K with the SEC on October 20, 2021, that included a copy of the Notice;[5]

- The Publication Notice was published as a quarter-page advertisement in the Wall Street Journal on October 21, 2021;

- Plaintiffs' counsel has continuously maintained a copy of the Notice (and additional information) on their firms' websites since at least October 21, 2021;

- Epiq has established a dedicated website for the Settlement, www.RenrenSettlement.com, which has been in operation since October 20, 2021. Epiq Aff. The Epiq website provides copies of the Notice, Scheduling Order, Stipulation, and Complaint, and will contain information and instructions on how Renren Shareholders may participate in the virtual Settlement Hearing; and

- On October 26, 2021, Epiq mailed the Notice to the last known addresses of Renren's Class A shareholders of record and to ADS Holders, based on information provided by the company.[6]

The Settlement has also received substantial attention in the media and trading market. After initial volatility immediately after the Settlement was announced, Renren's ADSs (ticker RENN) jumped in response to public disclosure of the Settlement and have traded in a narrow range on heavy volume, indicating that the marketplace is aware of the proposed Settlement. Reid Aff. ¶58.

[4] https://www.sec.gov/Archives/edgar/data/0001509223/000110465921124694/0001104659-21-124694-index.htm

[5] https://www.sec.gov/Archives/edgar/data/0001509223/000110465921128048/0001104659-21-128048-index.htm

[6] Epiq will provide an affidavit no later than November 24, 2021 attesting to the mailing and publication and website posting outlined herein.

ARGUMENT

I. THE COURT SHOULD APPROVE THE PROPOSED SETTLEMENT BECAUSE THE PARTIES BARGAINED FOR A FAIR, REASONABLE, AND ADEQUATE RESOLUTION.

The proposed Settlement easily passes the simple test for approval: the parties reached it through an arm's length bargaining process, and it is "fair and reasonable." *Benedict v. Whitman Breed Abbott & Morgan*, 77 A.D.3d 870, 872 (2d Dep't 2010) (court must "determine whether a proposed settlement of a shareholder derivative claim is fair and reasonable to the corporation and its shareholders"). A court's review of the terms of a fairly bargained agreement is limited because New York public policy strongly favors resolving litigation through settlements. *See Baghoomian v. Basquiat*, 167 A.D.2d 124, 125 (1st Dep't 1990) ("Public policy encourages the settlement of lawsuits ...."); *Benedict,* 77 A.D.3d at 872 ("'[T]he only question ... is whether the settlement, taken as a whole, is so unfair on its face as to preclude judicial approval.'") (citation omitted) (alterations in original).

There can be no serious dispute that this Settlement followed a fair and vigorous bargaining process, which included persistent assistance from a retired federal judge who the parties chose to mediate with the parties' highly qualified and fully engaged counsel. Thus, the record-setting recovery for these difficult and complex claims is indisputably "fair and reasonable" to Renren and its minority shareholders.

A. The Proposed Settlement Provides Immediate and Substantial Compensation to Renren Shareholders and Forces Renren to Improve Its Corporate Governance to Prevent Future Harm.

The Settlement Amount of $300 million (or more, depending on the True Up), is significant from any standpoint, but especially for a shareholder derivative case. Indeed, the proposed Settlement is believed to be the largest upfront cash payment settling a derivative case in U.S. history. It is also the largest direct pay derivative settlement, which will lead to the distribution of

proceeds directly to Renren's minority shareholders and ADS holders—and not to Defendant Controlling Stockholders, who still hold the majority interest in the company.

Based on documents Defendants produced, Plaintiffs' current "best-case" estimate of the value of the Investments as of the Transaction is approximately $1.277 billion.[7] Reid Aff. ¶51. Renren received approximately $183 million in consideration in the Transaction, meaning that the company suffered a net loss of approximately $1.094 billion under the current "best-case" scenario. *Id.* Based on current information about the shares held by non-insiders, the Settlement Amount implies a company-level recovery of ***approximately $955 million***.[8] Thus, the Settlement Amount of $300 million (or more) represents ***at least an 87%*** recovery of the Renren Shareholders' proportionate share of the company-level net loss under an aggressive, "best-case" scenario. *Id.* This is an extraordinary result, by any measure.

Moreover, the Settlement Amount is much higher than other possible scenarios for a recovery at trial. For example, Defendants likely would argue at trial that Renren's net loss should be reduced by the $500 million OPI Value, which was the amount used to calculate the Cash Dividend. Reid Aff. ¶52. If Defendants prevailed on this argument, then the recoverable company-level losses would be only $594 million, far less than the $955 million recovery implied by the Settlement Amount. *Id.* Settling now avoids the litigation risk associated with a scenario in which Renren Shareholders would wait years and then recover significantly less than what Renren Shareholders are receiving through this Settlement.

[7] That sum was derived from an internal company spreadsheet, dated April 30, 2018, that Plaintiffs uncovered and submitted for the Attachment Order. NYSCEF No. 521.

[8] As a result, when viewed at a company level, the Settlement Amount exceeds Plaintiffs' initial damages model (approximately $900 million) when they filed suit.

The Settlement Amount is similarly remarkable when viewed through the lens of its per-share and per-ADS value. The Settlement Amount is ***over 140%*** of the per-share Cash Dividend paid to participating investors in 2018 through the Transaction. *Id.* ¶53.

Given that settlements inherently involve compromise, and the monetary recovery here is substantial in both absolute terms and relative to the amount at issue, the Settlement is clearly fair and reasonable.

B. The Benefits of the Proposed Settlement Far Outweigh the Delays and Risks of Continued Litigation.

The Settlement should also be approved because it provides a substantial, immediate benefit to Renren and Renren Shareholders while avoiding the substantial delays and uncertainties that would be unavoidable in further litigation. Defendants have highly qualified counsel, their own expert witnesses, and the resources to vigorously contest every conceivable issue. Further litigation would have entailed many uncertainties inherent in a case involving Cayman law, complex valuations of at least 44 portfolio companies, and fact witnesses scattered across the globe (including in China, where it is difficult, at best, to compel deposition testimony). And given the Court's busy docket, the number of parties, and the complex expert testimony, a trial was likely more than a year away.

Moreover, even if Plaintiffs overcame the three pending sets of motions to dismiss and navigated the minefield of factual and legal challenges until trial, going to trial is always risky. It is riskier when the recovery could hinge on a battle of competing, well-credentialed experts. Trying this case also would have been difficult because Plaintiffs would have needed official (and possibly disputed) translations of critical documents written in Mandarin and transcriptions of audio files. And even if Plaintiffs prevailed at trial, there would have been lengthy appeals that could have dragged on for months or years. Indeed, the parties completed one appeal to the First Department,

including briefing over leave to appeal to the Court of Appeals (which was denied), another appeal was resolved by stipulation, and a third appeal is pending.

Lastly, taking this case to trial and beyond would entail a risk that Plaintiffs would not collect some or all of a potential judgment. Although Plaintiffs obtained some protection from the Attachment Stipulation, which was Plaintiffs' clever solution to preserve the status quo, the ultimate recovery at trial would depend on asset valuations at some future point when a judgment is no longer appealable. SoFi's stock has been trading well since it went public, but there is no telling what its stock price might be years from now (the likely timeline to secure victory and defeat all appeals), especially considering that the U.S. equity markets are currently trading near all-time highs and the U.S. economy faces significant uncertainties. The uncertainties are even greater for OPI's other holdings, which are relatively illiquid investments in private companies, many of which are based in China. Reid Aff. ¶75.

C. The Parties Reached the Proposed Settlement Through Hard-Fought, Arm's Length Negotiation.

The Settlement is the product of an arm's length and fair process that included multiple formal mediation sessions and weeks of follow-on negotiations before Judge Phillips, who is one of the country's most-respected mediators in complex, high-stakes litigation. Judge Phillips made a mediator's proposal to resolve the case, which the parties accepted, after weeks of wrangling by the parties and working nights and weekends. It took more than two months of negotiations to finalize the many critical deal points. The negotiations were particularly grueling because there were several different groups of Defendants, each represented by one or more highly regarded law firms. A deal shaped by this heavily negotiated process is inherently fair. *See In re HSBC Bank U.S.A., N.A., Checking Acct. Overdraft Litig.*, No. 650562/2011, 2015 WL 6698518, at *10 (Sup.

Ct. N.Y. Cty. Oct. 27, 2015) (Bransten, J.) (Judge Phillips's opinion as the parties' mediator supported the court's finding that settlement was fair).

D. The Experience and Opinions of Plaintiffs and Plaintiffs' Counsel Favor Approving the Proposed Settlement.

Plaintiffs include sophisticated hedge funds that provided important assistance for this action and support the Settlement. Meyer Aff. ¶¶2-5; Shoghi Aff. ¶¶7-9; Halesworth Aff. ¶¶2-5. Lead counsel are among the nation's top plaintiffs' firms for commercial and corporate litigation. Reid Collins is well-recognized for, among other things, litigating complex breach of fiduciary duty claims against insiders and trying valuation-related cases. Moreover, Reid Collins's deep experience litigating cross-border disputes, including those relating to the Cayman Islands, was instrumental to making this case successful. Grant & Eisenhofer and Gardy & Notis are known nationally for their work on corporate and securities litigation, and they have secured some of the largest recoveries in shareholder class action and derivative litigation. Ganfer Shore Leeds & Zauderer brought critical experience in Commercial Division litigation and appeals. This team of lawyers knows when to recommend to their clients to accept a settlement.

In sum, the negotiated resolution of this case should be approved because it represents an exceptional outcome for Renren's minority shareholders while preserving scarce judicial resources.

II. THE REQUESTED FEE AWARD IS REASONABLE GIVEN THE RISK, COMPLEXITY, AND NOVEL ISSUES PLAINTIFFS FACED AND THE EXTRAORDINARY RESULTS ACHIEVED BY COUNSEL.

Plaintiffs' counsel respectfully request an award of attorneys' fees of 33% of the Settlement Amount. The requested fee is reasonable under BCL §626(e), and it tracks the market for contingent engagements involving complex claims by defrauded companies against their insiders. Indeed, several courts have approved higher contingent fees for Reid Collins on behalf of Chapter

7 bankruptcy trustees. Reid Aff. ¶64; *see also Missouri v. Jenkins,* 491 U.S. 274, 285-86 (1989) ("reasonable" contingency fee should approximate what counsel would receive when bargaining for their services). The request is supported by all Plaintiffs including Oasis, which is the largest non-insider shareholder and thus has the largest economic stake in the recovery as the holder of more than one-third of the entire minority shareholder group. Meyer Aff. ¶¶3, 6; Shoghi Aff. ¶10-12; Halesworth Aff. ¶6; Arama Aff. ¶5.

The requested fee is also reasonable because it follows the well-accepted percentage-of-the-fund method used in derivative and class action cases in New York. *Ripley v. Int'l Railways of Cent. Am.*, 16 A.D.2d 260, 263 (1st Dep't 1962) (awarding percentage of amounts recovered after court recalculated the benefit to the company), *aff'd*, 12 N.Y.2d 814 (1962); *Fernandez v. Legends Hosp., LLC*, No. 152208/2014, 2015 WL 3932897, at *5 (Sup. Ct. N.Y. Cty. June 22, 2015) (describing the percentage method as "often preferrable" in common fund cases and the prevailing method for awarding fees in the Second Circuit, and awarding a 33% fee in an FLSA class action); *see also Charles v. Avis Budget Car Rental, LLC*, No. 152627/2016, 2017 WL 6539280, at *4 (Sup. Ct. N.Y. Cty. Dec. 21, 2017) (similar, awarding 33% recovery).

Notably, this Court twice awarded attorneys' fees of one-third of a settlement fund created by a class action settlement. *See, e.g.*, *In re EverQuote, Inc. Secs. Litig.*, No. 651177/2019, slip op. ¶14 (Sup. Ct. N.Y. Cty. June 11, 2020) (Borrok, J.); *In re Saks Inc. S'holder Litig.*, No. 652724/2013, slip op. ¶15 (Sup. Ct. N.Y. Cty. May 28, 2021) (Borrok, J.).[9] The requested fee is

[9] Arguably, a reasonable percentage should be higher here than in the two securities litigation settlements that this Court considered because those cases did not involve the thicket of foreign law and jurisdictional issues here. And the nearly complete recovery of Renren's net losses dwarfs the settlement amounts in securities class action cases, where recoveries are often just pennies on the dollar. *See* CORNERSTONE RESEARCH, *Securities Class Action Settlements, 2020 Review and Analysis*.

also appropriate because it encourages meritorious but difficult cases with uncertain outcomes and deters wrongful conduct, such as the alleged pattern of self-dealing here. *See In re Checking Acct. Overdraft Litig*, 830 F. Supp. 2d 1330, 1367 (S.D. Fla. 2011) (rejecting arguments from objectors who sought to reduce the fee percentage in a settlement that exceeded $400 million). The decisions in this case should be an important precedent for future actions involving wrongdoing by fiduciaries.

As explained further below, the fee request is reasonable considering all the relevant circumstances, which include: (i) the unprecedented and nearly complete (under a best-case scenario) recovery obtained for the settlement beneficiaries; (ii) the risks and complexities counsel encountered and then overcame skillfully; and (iii) the support from all representative plaintiffs, including the minority shareholder with the largest stake in the recovery. *See, e.g.*, *EverQuote,* slip op. ¶14 (finding fee reasonable "given the contingent nature of the case and the substantial risks of non-recovery, the time and effort involved, and the result obtained for the settlement class); *see also Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) (stating the "traditional criteria" that guides the approval of a percentage of a common fund, which include: "(1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation ...; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations") (citation omitted).

A. The Requested Fee is Reasonable Given the Settlement's Significant Economic Recovery and the Non-Monetary Benefits.

Any analysis of the fee request must start with the historic results achieved through the Settlement. *Ripley*, 16 A.D.2d at 263 ("any award for compensation should depend, in a large measure, on the benefits derived by the corporation from the successful efforts of the applicants on its behalf"). The Settlement Amount of at least $300 million is the largest derivative settlement

in U.S. history in terms of immediate cash paid.[10] The result is even better considering that it is a direct pay settlement that benefits the Renren Shareholders directly. Viewed through the lens of how most derivative settlements are structured—through a payment to the company, some of which benefits corrupt insiders—the Settlement is equal to a $955 million company-level settlement, dwarfing all other derivative settlements. The fee request here amounts to approximately 10.4% of the equivalent company-level recovery of $955 million. It also provides nearly a total recovery of Renren's net losses under an aggressive calculation, and far exceeds possible other scenarios at trial. The Settlement is even more noteworthy given the factual complexities, challenges in obtaining derivative standing to bring the claims under Cayman law, and hurdles to obtaining jurisdiction, as discussed above.

Moreover, beyond its sheer size, the Settlement is also a huge success for minority shareholders because of its structure. First, by insisting on and obtaining a direct pay model and prohibiting Defendants and the D&O Releasees from participating in the Settlement, Plaintiffs' counsel kept the settlement proceeds away from Defendants who still effectively control Renren (and thus would have controlled funds awarded to the company). Second, by insisting on and obtaining the critical term that the Settlement Amount is "***the greater of***" $300 million or the specified per-share and per-ADS amounts, Plaintiffs' counsel guarded against any Controlling

[10] For a list of the largest derivative settlements, see https://bit.ly/3ndcc12 (updated October 10, 2021). The Settlement tops all cash recoveries. Google's agreement to set aside $310 million over 10 years to fund its diversity and inclusion efforts, while important to society, involved no cash recovery and no cash distribution. *In re Alphabet Inc. Shareholder Derivative Action*, Case No. 19-CV-341522, slip op. at 9 (Cal. Super. Ct. Nov. 30, 2020) (settlement provided "at least $100 million in long-term value"). Likewise, the settlement of the UnitedHealth options backdating case did not involve a cash payment: defendants forfeited hard-to-value stock options and rights that shareholders claimed were improperly granted. *In re UnitedHealth Group, Inc. S'holder Deriv. Litig.,* 631 F. Supp. 2d 1151, 1157-58 (D. Minn. 2009) (disgorged options had a $900 million intrinsic value and a $658 million Black Scholes valuation as of 2007, but the trading price dropped in half before court approval).

Stockholders diluting the minority shareholders to benefit themselves. In other words, Plaintiffs not only obtained a large recovery, but they procured critical protections to ensure that Defendants and the D&O Releasees would not share in the proceeds.

The important and meaningful corporate governance reform for Renren is another factor that supports the requested fee. Stipulation ¶11. The Settlement makes sure that Chen and any other Board insiders cannot sit on the Corporate Governance and Nominating Committees. That reform is important because Chen managed to hand-pick the so-called Special Committee in 2018, which enabled him to obtain a rubber-stamp for the Transaction. These corporate governance reforms will add additional value to Renren and its minority shareholders if the Settlement is approved, but likely could not be imposed as a remedy if the litigation were to proceed to trial. *Seinfeld v. Robinson*, 246 A.D.2d 291, 298-300 (1st Dep't 1998) (finding that corporate governance reforms implemented under terms of derivative settlement constituted sufficient "substantial benefit" to warrant award of attorneys' fees despite lack of monetary consideration paid in settlement). Thus, in every way, the exemplary benefits obtained here support the requested fee.

B. The Requested Fee Is Reasonable Given the Case's Extraordinary Novelty, Complexity, and Difficulty.

The requested fee is appropriate because bringing such a novel claim was risky. To date, it appears that the Settlement is the only successful New York derivative action involving a Cayman company based overseas, which is unsurprising given the substantial hurdles of establishing personal jurisdiction and standing to sue directors and officers (and aiders and abettors) under Cayman law. Given that many foreign companies are domiciled in the Cayman Islands and benefit from New York's capital markets, this case sets an important precedent for an avenue to protect minority shareholders of foreign companies that take advantage of New York's financial markets.

Reid Aff. ¶¶72-74; *Davis,* 160 A.D.3d at 115-18 (denying claim because plaintiff did not have derivative standing under Cayman law).

Plaintiffs asserted complex claims that would have required expert-intensive proof at trial: Plaintiffs took on the task of proving the undervaluation of a portfolio of investments in 44 portfolio companies and 6 investment funds that were transferred to OPI in connection with the Transaction. Valuing private emerging companies as of 2018, particularly technology companies and other disruptive companies, which are not easily valued through conventional financial valuation techniques, is a notoriously difficult task.

Over time, Plaintiffs' counsel followed the documentary evidence and added challenges to their already difficult claims by bringing additional claims against new parties, such as the SoftBank Defendants. Reid Aff. ¶¶27-31, 68. Plaintiffs also added new fraudulent conveyance claims that raised more valuation hurdles and complex choice-of-law issues, such as whether New York or Cayman law governed mid-litigation transfers.[11] *Id*. ¶68. Plaintiffs' new claims increased the scope of discovery and the burden of litigating this cross-border case by adding Defendants incorporated in or based in Japan, the United Kingdom, and Micronesia.

The requested fee is also fair because counsel obtained this result after litigating for years against eight AmLaw 100 law firms. Many times, Plaintiffs' counsel had to respond simultaneously to four separate briefs submitted by different groups of Defendants. Having so many parties and defense counsel also made the case more complicated and challenging to mediate. The requested fee recognizes the skill required to cut through the web of complexity.

[11] SoftBank, SoFi, and the OPI Defendants raised that defense in their pending, fully briefed motions to dismiss.

Lastly, the fee request is appropriate because Plaintiffs and their counsel built this case from the ground up. There were no reported governmental or regulatory investigations, nor were there any parallel lawsuits brought by other parties, as commonly happens in class actions. *See In re Gulf Oil/Cities Serv. Tender Offer Litig.*, 142 F.R.D. 588, 597 (S.D.N.Y. 1992) (awarding 30% fee to counsel when "this is not a case where plaintiffs' counsel can be cast as jackals to the government's lion, arriving on the scene after some enforcement or administrative agency has made the kill").

In sum, the impressive results in the courtroom and during negotiations here are a testament to the skill, diligence, and creativity of the team of lawyers that pursued Renren's derivative claims on a contingent basis. Reid Aff. ¶¶65-69, 72; Mackintosh Aff. ¶2; Notis Aff. ¶2; Zauderer Aff. ¶¶2, 4-5. Counsel's resourcefulness and assertive negotiating led to the innovative direct pay dividend to minority shareholders and the "greater of" protection in the Settlement Amount. Reid Aff. ¶¶50, 54-55.

C. All Plaintiffs Support the Requested Fee Award.

Plaintiffs have believed in this case from the outset and know firsthand the risks the case presented and how remarkable the result is. All Plaintiffs, including Renren's largest minority shareholder with over one-third of the total minority interest, support the fee request. Such support weights in favor of awarding the requested fee. Meyer Aff. ¶¶3, 6; Shoghi Aff. ¶¶10-12; Arama Aff. ¶5; Halesworth Aff. ¶6.

D. Counsel Made a Substantial Investment into the Action.

Plaintiffs' counsel collectively spent 16,938.3 hours litigating this case aggressively, yet efficiently and effectively, in this Court and the First Department since its inception over three years ago. Reid Aff. ¶69; Notis Aff. ¶3; Mackintosh Aff. ¶3; Zauderer Aff. ¶3; Gross Aff. ¶3. That is a massive investment of time. More than 40% of Reid Collins's lawyers devoted time to the

matter. Reid Aff. ¶69. This litigation posed a very significant risk for Plaintiffs' counsel because they easily could have recovered nothing. Counsel's investment and risk strongly supports the requested percentage of the settlement fund. Counsel's fee request is fair and reasonable.

E. Counsel's Expenses Were Reasonable and Necessary.

Plaintiffs' counsel incurred $906,470.47 in expenses incurred litigating this case, most of which paid for valuation experts, foreign law experts, mediation, electronic discovery services for the voluminous documents, and translations. Reid Aff. ¶70, Notis Aff. ¶¶8-9; Mackintosh Aff. ¶¶6-7; Zauderer Aff. ¶¶6-7; Gross Aff. ¶¶8-9. Counsel requests an award of these expenses, which courts routinely permit. *See, e.g.*, *EverQuote,* slip op. ¶14 (awarding plaintiffs' counsel's expenses); *see also Glenn v. Hoteltron Sys., Inc*., 74 N.Y.2d 386, 393 (1989) (requiring company to pay expenses incurred in derivative litigation).

CONCLUSION

The Settlement is a tribute to counsel's ingenuity, persistence, and efficiency, all of which support the requested fee and the recovery of counsel's expenses. The Settlement should be approved, and counsel's request for 33% of the Settlement Amount and $906,470.47 of expenses should be granted.

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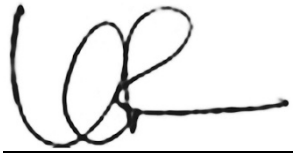

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