

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Stuart Krohnengold, Wayne Antoine, Lee
Webber, Anthony Medici, Joseph Bendrihem,
Larry Gilbert, Rafael Musni, Thomas Lantz,
Sandra Scanni, and Claudia Gonzalez, as
representatives of a class of similarly situated
persons, and on behalf of the New York Life
Insurance Employee Progress Sharing
Investment Plan, and the New York Life
Insurance Company Agents Progress Sharing
Plan,

Case No. 1:21-cv-01778 - JMF

Plaintiffs,

v.

New York Life Insurance Company; the
Fiduciary Investment Committee; the Board
of Trustees; Katherine O'Brien; Anthony R.
Malloy; Yie-Hsin Hung; Arthur A. Seter;
Scott L. Lenz; Robert J. Hynes; and John and
Jane Does 1-20,

Defendants.

**DECLARATION OF KAI RICHTER IN SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

I, Kai Richter, hereby submit this Declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement.

1. I am Of Counsel at Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein") and am a member of the firm's Employee Benefits/ERISA Practice Group. Cohen Milstein is counsel for Plaintiffs in this action, and was previously appointed by the Court (on a preliminary basis) to serve as Class Counsel. *See* ECF 188 at ¶ 5. I have served as Cohen Milstein's lead counsel in the action.

1. For the reasons stated in my earlier Declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (ECF 176), I believe that the Settlement is fair, reasonable, and adequate.

Report of the Independent Fiduciary

2. Pursuant to Prohibited Transaction Exemption 2003-39 (PTE 2003-39)¹ and Paragraph 2.2 of the Settlement Agreement (ECF 176-1), an Independent Fiduciary (Newport Trust Company) reviewed the Settlement on behalf of the New York Life Insurance Employee Progress Sharing Investment Plan and the New York Life Insurance Company Agents Progress Sharing Plan (the "Plans"). As part of this review, the Independent Fiduciary personally discussed the Settlement with both myself and defense counsel (in separate interviews) and subsequently issued an opinion letter after its review. A true and correct copy of that letter is attached hereto as Exhibit A. In the letter, the Independent Fiduciary stated that: "(i) the terms of the Settlement, including the scope of the release of claims; the amount of cash and the value of any non-cash assets and other consideration received by the Plans and the amount of the attorneys' fees and other amounts paid from the recovery, are reasonable in light of the Plans' likelihood of full recovery, the risks and costs of litigation, and the value of claims foregone; (ii) the terms and conditions of the transaction are no less favorable to the Plans than comparable arms-length terms and conditions that would have been agreed to by unrelated parties under similar circumstances; and (iii) the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest." *Id.* at 1-2. Accordingly, the Independent Fiduciary "determined that the Plans should not object to the Settlement" and "authorize[d] the Plan's participation in the Settlement." *Id.* at 3.

¹ See Prohibited Transaction Exemption 2003-39, 68 Fed. Reg. 75,632 (Dec. 31, 2003), *as amended*, 75 Fed. Reg. 33,830 (June 15, 2010).

Reaction of the Class to the Settlement

3. The reaction of the Class to the Settlement also has been favorable. The period to submit objections to the Settlement pursuant to the Preliminary Approval Ordered ended June 20, 2024. *See* ECF 188 ¶ 14. As of the date of this declaration, I am not aware of any objections to the Settlement from any Class Member or anyone else.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 25, 2024

/s/ Kai Richter
Kai Richter