

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO, INC. SECURITIES LITIGATION	:	05 Civ. 8626 (JSR)
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**REPLY DECLARATION OF JAMES J. SABELLA**

JAMES J. SABELLA hereby declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a director of Grant & Eisenhofer P.A., co-lead counsel for Lead Plaintiffs. I make this reply declaration in further support of Lead Plaintiffs’ motions for final approval of Lead Plaintiffs’ settlements with the THL, Audit Committee and Underwriter Defendants, final approval of the Plan of Allocation, final certification of a class for settlement purposes, and an award of attorneys’ fees and reimbursement of litigation expenses.

2. There are no objections to the Settlements or the Plan of Allocation or the application for an award of attorneys’ fees and expenses. One Settlement Class member had submitted an objection to the Plan of Allocation, because he mistakenly believed that under the Plan, Settlement Class members (like him) who purchased Refco shares at the end of the Class Period were not eligible to participate in the Settlement. *See* Exhibit 1 hereto. After it was pointed out to him that that was not the case, the objecting class member withdrew his objection. *See* Exhibit 2 hereto.

Executed this 20 day of October 2010.

\_\_\_\_\_  
/s/ James J. Sabella  
James J. Sabella

# **EXHIBIT 1**

Keith M. Ganzer



September 28, 2010

In re REFCO, Inc. Securities Litigation  
05 Civ. 8626 (JSR)

Clerk of the U.S. District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

CC's:

Greg. A. Danilow, Esq.  
Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, NY 10153

Theresa Tzaskoma, Esq.  
Brune & Richard LLP  
80 Broad Street, 30<sup>th</sup> Floor  
New York, NY 10004

Andrew B. Weissman, Esq  
Wilmer Cutler Pickering Hale & Dorr LLP  
1875 Pennsylvania Avenue, NW  
Washington, DC 20006

Megan D. McIntyre, Esq.  
Grant & Eisenhofer P.A.  
1201 N. Market Street  
Wilmington, DE 19801

Salvatore J. Graziano, Esq.  
Bernstein Litowitz Berger & Grossman LLP  
1285 Avenue of the Americas  
New York, NY 10019

Dear Hon. Jed S. Rakoff,

I am a Class Member in the two "In re REFCO, Inc. Securities Litigation" settlement agreements you are reviewing at the October 27, 2010 Settlement Hearing. I object to the proposed Plan of Allocation in that it unfairly provides no benefit to those investors who purchased their shares between October 14, 2005 and October 17, 2005.

I purchased 1,600 shares of Refco Common Stock on October 14, 2005 at \$15.60 per share for \$24,960 (exclusive of commissions) and sold them on October 21, 2005 at \$1.06 per share for \$1,696, incurring a loss of \$23,264 exclusive of commissions. See the attached Scottrade brokerage statement.

According to the proposed Plan of Allocation, paragraph 21(b)(ii) applies to the date range. Under the plan, for stock purchased after October 13, 2005, the Artificial Inflation equals zero which means that all Class Members purchasing Refco common stock between October 14, 2005 and October 17, 2005 get nothing.

The proposed Plan of Allocation is heavily weighted toward those investors who held the stock prior to October 10, 2005 and it quickly gets worse for those investors who purchased stock after October 10, 2005. By October 14, 2005, the Plan allocates nothing. I object to this Plan of Allocation because settlement proceeds will be allocated too lopsidedly toward the early investors at the expense of the later investors. While I can appreciate the logic that the earlier investors get a larger allocation than the later investors, my issue is the rapidity to which later investors lose participation is too great. Investors who purchased stock in Refco between October 14, 2005 and October 17, 2005 deserve some reasonable participation in any fraud settlement rather than nothing.

During the week of October 10, 2005 through October 17, 2005, there were numerous rumors that a fraud had taken place at Refco. Each day, additional facts were released that supported the belief that a fraud had taken place. However, there was never any statement released that definitively said a fraud had indeed taken place. That is why on October 14, 2005, the stock was still trading at \$15.60 where I purchased it. I felt the rumors might not be true and that the stock was a bargain. It wasn't until after October 17, 2005 that information was released concluding the fraud was real.

I pray the court to revise the Plan of Allocation to allow those who purchased Refco Common Stock from October 14, 2005 to October 17, 2005 to get a reasonable allocation of settlement proceeds rather than nothing. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith M. Ganzer", written in a cursive style.

Keith M. Ganzer

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**FINANCIAL SERVICES**  
 12855 Flushing Meadow P.O. Box 31759  
 St. Louis, MO 63131-0759 - 314-965-1555

Branch Office	
SCOTTRADE, INC 230 PARK AVE NEW YORK NY 10169-0005  (212) 681-1980	

Account Number	Page Number
[REDACTED]	1
Period Ending	Prior Statement
October 31, 2005	September 30, 2005
<b>Office</b>	
31D	

KEITH M GANZER



**Information Update**

Scottrade has been named Highest in Investor Satisfaction by J.D. Power and Associates for the sixth consecutive time!

ACCOUNT SUMMARY	
	VALUE THIS PERIOD
VALUE SECURITIES IN POSITION	[REDACTED]
ACCOUNT MONEY BALANCES	[REDACTED]
<b>ACCOUNT TOTAL VALUE</b>	[REDACTED]

TRANSACTION SUMMARY	
OPENING BALANCE	[REDACTED]
CREDITS:	
OTHER CREDITS	
<b>TOTAL CREDITS</b>	[REDACTED]
DEBITS:	
OTHER DEBITS	
<b>TOTAL DEBITS</b>	[REDACTED]
<b>CLOSING BALANCE</b>	[REDACTED]

SECURITY POSITIONS									
Type	Symbol /		Description	Estimated Market			Estimated Annual		
	Cusip	Quantity		Price	Value	%	Income	Cur.Yld.	
[REDACTED]									

ACCOUNT ACTIVITY							
MARGIN ACCOUNT							
Date	Transaction	Quantity	Description	Price	Amount	Balance	
[REDACTED]							
10/14/05	BOUGHT	1,600	REFCO UNSOLICITED ORDER RFX	15.60	-24,967.00	-96,701.82	
[REDACTED]							
10/21/05	SOLD	500	REFCO UNSOLICITED ORDER RFXCQ	1.06	522.97	-91,178.85	

*See next page*



FINANCIAL SERVICES

12855 Flushing Meadow P.O. Box 31759  
St. Louis, MO 63131-0759 - 314-965-1555

<u>Account Number</u>	<u>Client Name</u>	<u>Prior Period</u>	<u>Period Ending</u>	<u>Page</u>
██████████	KEITH M GANZER	September 30, 2005	October 31, 2005	2

ACCOUNT ACTIVITY

MARGIN ACCOUNT

Date	Transaction	Quantity	Description	Price	Amount	Balance
10/21/05	SOLD	1,100	REFCO UNSOLICITED ORDER RFXCQ	1.06	1,165.95	-90,012.90



# **EXHIBIT 2**

Keith M. Ganzer



October 4, 2010

In re REFCO, Inc. Securities Litigation  
05 Civ. 8626 (JSR)

Clerk of the U.S. District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

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1201 N. Market Street  
Wilmington, DE 19801

Salvatore J. Graziano, Esq.  
Bernstein Litowitz Berger & Grossman LLP  
1285 Avenue of the Americas  
New York, NY 10019



Dear Hon. Jed S. Rakoff,

Referring to my letter dated September 28, 2010 in which I objected to the Plan of Allocation, I hereby withdraw my request for judicial review.

As attorney Salvatore Graziano pointed out, the market for Refco stock was suspended from October 14, 2005 through October 17, 2005. In my particular case, the monthly broker statement gave unspecified dates for each transaction. Upon further inquiry, these dates turned out to be settlement dates rather than trade dates. I had in fact purchased my stock on October 11, 2005 rather than October 14, 2005.

As the Plan of Allocation does in fact include all shareholders who purchased stock during the relevant period, I no longer have any objection to it. I apologize for any inconvenience my error may have caused.

Sincerely,

A handwritten signature in cursive script, appearing to read "Keith M. Ganzer".

Keith M. Ganzer