

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION**

	)	
IN RE INFINITY Q DIVERSIFIED ALPHA	)	Index No. 651295/2021
FUND SECURITIES LITIGATION	)	
	)	<u>CLASS ACTION</u>
	)	
	)	Part 53: Justice Andrew S. Borrok
THIS DOCUMENT RELATES TO:	)	
THE CONSOLIDATED ACTION	)	
	)	
	)	
	)	
DOMINUS MULTIMANAGER FUND, LTD.,	)	Index No. 652906/2022
Individually and on Behalf of all Others	)	
Similarly Situated,	)	<u>CLASS ACTION</u>
	)	
Plaintiff,	)	Part 53: Justice Andrew S. Borrok
	)	
v.	)	
	)	
INFINITY Q CAPITAL MANAGEMENT LLC,	)	
et al.,	)	
	)	
Defendants.	)	
	)	

**AFFIRMATION OF DAVID ROSENSTEIN IN SUPPORT OF MOTIONS FOR:  
(1) FINAL SETTLEMENT APPROVAL; (2) ATTORNEYS' FEES AND PAYMENT  
OF LITIGATION EXPENSES; AND (3) PLAINTIFF'S SERVICE AWARD**

I, David Rosenstein, hereby affirm as follows:

1. I am one of the named Plaintiffs in the above-captioned securities class actions (the “Actions”). I respectfully submit this declaration in support of both the proposed settlement—which I fully support and believe is a great result for the Settlement Class—and the requested award of attorneys’ fees and expenses, and my request for a service award of \$5,000 in connection with the time and effort I expended in representing and serving the best interests of the Settlement Class.

2. I have personal knowledge of the matters referred to in Plaintiffs’ applications and of the other matters set forth in this affirmation, as I have been directly involved in monitoring and overseeing the prosecution of the Actions, and, if called as a witness, could competently testify thereto.

**Work Performed by Plaintiff on Behalf of the Settlement Class**

3. I purchased 7,763.975 shares of the Infinity Q Diversified Alpha mutual fund (ticker symbol “IQDAX”) (the “Alpha Fund”) on October 30, 2020, pursuant and traceable to the prospectuses that are at issue in the Actions.

4. I sought to serve as a class representative in *In re Infinity Q Diversified Alpha Fund Securities Litigation*, Index No. 651295/2021, because I wanted to represent and protect the interests of all investors who, like me, purchased shares in the Alpha Fund. From the start of the Actions, I have been fully engaged in the Actions and committed to assisting Plaintiffs’ Counsel in vigorously prosecuting this case on behalf of the Settlement Class.

5. For almost two years, I have actively participated in the prosecution of the Actions, including: (i) communicating with Plaintiff’s Counsel concerning the status, progress, and any updates related to the Actions, (ii) reviewing pleadings, briefs, orders, and other documents filed

in the Actions, and (iii) conferring with Plaintiff's Counsel concerning mediation and settlement of this Actions.

6. From early on in the litigation, it was important to me (and, I believe, to the Settlement Class as a whole) to resolve the Actions quickly on favorable terms, as this would allow Settlement Class Members to maximize their recovery of the Defendants' available assets, and allow for the release of the money the Funds have been retaining as litigation reserves to cover the cost and expense of the Actions.

**Plaintiff Supports Approval of the Settlement**

7. Based on my involvement in the Actions, and when considering the merits of the Actions and the risks and benefits of litigating as opposed to settling the Actions, I believe the settlement of up to \$48,000,000.00 is an excellent resolution for the Settlement Class given the risks of continued litigation and the potential recovery. None of this has been possible without the diligent efforts of myself and Plaintiffs' Counsel. Thus, I believe the Settlement represents a fair, reasonable, and adequate recovery on behalf of the Settlement Class and that final approval of the proposed Settlement is in the best interest of each Settlement Class Member.

**Plaintiff Supports Plaintiffs' Counsel's Fee and Expense Application**

8. I have approved and support Plaintiffs' Counsel's request for an award of attorneys' fees of 33 and 1/3% of the Settlement's \$45,000,000 guaranteed cash recovery, and payment of Plaintiffs' Counsel's requested litigation expenses, with interest on both amounts. I believe this requested fee is reasonable for many reasons, which I understand are typically considered when analyzing fee award requests. First, while both I and Plaintiffs' Counsel were confident as to the merits of the claim, the successful prosecution of the Actions was far from assured. Plaintiffs' Counsel's ability to reach a settlement of this size despite the multiple risks inherent in the Actions

– in particular, the fact that many of the Defendants had strong due diligence defenses as a result of the criminal actions of James Velissaris – strongly supports the requested fee. Second, Plaintiff’s Counsel’s efforts investigating and developing the claims in the Actions through their own independent investigation and confirmatory discovery, and their opposition of Defendants’ motions to dismiss allowed for the Settlement Class’s recovery. Third, Plaintiff’s Counsel was able to achieve this favorable Settlement notwithstanding Defendants’ representation by eight of the country’s leading law-firms, Morgan, Lewis & Bockius LLP, Duane Morris LLP, Vedder Price P.C., Faegre Drinker Biddle & Reath LLP, Davis Wright Tremaine LLP, Milbank LP, Arnold & Porter Kay Scholer LLP, and Petrillo Klein & Boxer LLP.

9. In summary, I believe Plaintiffs’ Counsel’s requested award of attorneys’ fees is both fair and reasonable given the high-quality representation, responsiveness, and diligence of Plaintiffs’ Counsel in prosecuting the Actions, as well as the resulting recovery of up to \$48,000,000.00 for the Settlement Class and the likely release of hundreds of millions more from the Alpha Fund’s reserve, in the face of the risk of no recovery at all. I further believe that the litigation expenses requested are reasonable and were necessary for the successful prosecution and resolution of the Actions.

**Plaintiff Respectfully Requests a Service Award**

10. I have not received, nor have I been promised or offered, any financial incentive or compensation for serving as a Plaintiff. I understand, however, that the Court may authorize an award to a representative serving on behalf of the Settlement Class directly relating to their representation of the Settlement Class. I know that the grant of such an award is entirely in the discretion of the Court. It is also my understanding that the Settlement Class has been given notice of the request by myself and the other Plaintiffs to seek service awards for our efforts in bringing

and prosecuting the Actions. As noted above, I devoted significant time to the Actions. I therefore respectfully request a service award of \$5,000.00 in connection with the time and effort I spent representing the Settlement Class in the Actions.

I affirm under penalty of perjury that the foregoing is true and correct.

Executed this 12/20 day of December 2022 at Tuxedo Park, New York.

DocuSigned by:  
*David Rosenstein*  
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\_\_\_\_\_  
DAVID ROSENSTEIN

**PRINTING SPECIFICATIONS STATEMENT**

1. Pursuant to 22 N.Y.C.R.R. §202.70(g), Rule 17, the undersigned counsel certifies that the foregoing affirmation was prepared on a computer using Microsoft Word. A proportionally spaced typeface was used as follows:

Name of Typeface: Times New Roman  
Point Size: 12  
Line Spacing: Double

2. The total number of words in the memorandum, inclusive of point headings and footnotes and exclusive of the caption, signature block, and this Certification, is 986 words.

DATED: December 27, 2022

Respectfully submitted,

**THE ROSEN LAW FIRM, P.A.**

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