

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

APPLICATION OF MORNING MIST HOLDINGS
LIMITED and MIGUEL LOMELI,

Petitioners,

FOR AN ORDER PURSUANT TO SECTION 184C OF
THE BRITISH VIRGIN ISLANDS BUSINESS
COMPANIES ACT OF 2004 TO PURSUE DERIVATIVE
ACTION ON BEHALF OF THE RESPONDENT,

- against -

FAIRFIELD SENTRY LIMITED,

Respondent.

Index No. 601527/09

Hon. Bernard J. Fried

Part 60

**STIPULATION AND ORDER RE
VOLUNTARY DISCONTINUANCE**

WHEREAS, on May 15, 2009, Petitioners Morning Mist Holdings Limited and Miguel Lomeli filed the above-captioned proceeding (the "Special Proceeding");

WHEREAS, on November 13, 2009, Petitioners filed a motion pursuant to CPLR 3217[b] for entry of an Order voluntarily discontinuing this Special Proceeding without prejudice;

WHEREAS, Brown Rudnick LLP ("Brown Rudnick") represents that a foreign court has issued an order placing Fairfield Sentry Limited in liquidation and that Brown Rudnick is attorney for Fairfield Sentry Limited (in Liquidation), by its Liquidators, Kenneth M. Kryz and Christopher D. Stride (the "Liquidators");

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel, as follows:

1. This Special Proceeding is discontinued without prejudice.
2. Neither this stipulation, nor the discontinuance of this Special Proceeding, nor any

pleading or other statement filed in connection herewith by any party hereto, shall be deemed to be with prejudice to, or a waiver of, or shall otherwise preclude or estop the future assertion in any action or proceeding, in the United States or in any foreign tribunal, of any right, defense or objection of the parties hereto with respect to the action pending in this Court entitled *Morning Mist Holdings Limited and Miguel Lomeli v. Fairfield Greenwich Group, et al.*, Index No. 601511/2009 (hereafter "Fairfield Action"), arising under any law, foreign or domestic, or based on any fact, whether now known or hereafter discovered. Without limitation to the foregoing, it is specifically acknowledged and agreed that (i) any rights of the named plaintiffs in the Fairfield Action to object to or oppose any standing, authority, appearance by or recognition of the Liquidators (or their successors) or any recognition of a liquidation of Fairfield Sentry Limited, under any law, foreign or domestic (including 11 U.S.C. § 1501, *et seq.*), or to object to or oppose any action or inaction by the Liquidators (or their successors) on any grounds are specifically reserved; and (ii) any rights of Fairfield Sentry Limited and/or the Liquidators (or their successors) to appear in the Fairfield Action, to seek realignment of the parties in the Fairfield Action, and/or to be substituted into the Fairfield Action as the proper plaintiff(s) and/or to seek the dismissal of the Fairfield Action or the named plaintiff(s), or either of them, as parties to that action on the ground of the absence of standing and/or authority on the part of such named plaintiff(s), or on any other grounds, are specifically reserved.

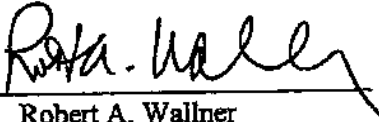
3. This Stipulation and Order does not constitute an admission or assent by any party to this Special Proceeding to any position, contention, argument or allegation made by an adverse party to this Special Proceeding pursuant to either a pleading or other statement, provided, however, that nothing herein shall preclude a party from asserting that any statement made in this Special Proceeding by an adverse party constitutes an admission of such adverse

party or its successors.

4. Each side shall bears its own costs.

Dated: New York, New York
March 1, 2010

MILBERG LLP

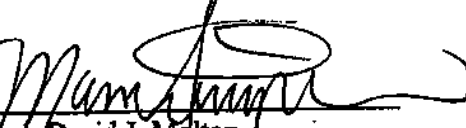
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and Christopher D. Stride*

SO ORDERED: _____
I.S.C. Date