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October 20, 2021

The Hon. Barry R. Ostrager
Supreme Court, NY County
60 Centre Street, Room 629
New York, NY 10007

Re: 652077/2017 (Pacific Alliance Asia Opportunity Fund L.P. v. Kwok Ho Wan et al)

Dear Justice Ostrager:

We represent Defendant Miles Kwok in the above-captioned proceeding. We write to alert the Court of an ethical conflict that just arose yesterday when Edward Moss, Esq., formerly of O'Melveny & Myers LLP, counsel for Pacific Alliance Asia Opportunity Fund, L.P., filed his appearance on behalf of the Plaintiff in this matter. Mr. Moss has recently joined Cahill Gordon & Reindell LLP ("Cahill"). Cahill has an unavoidable conflict in this case as it has advised Mr. Kwok in related matters. In order to guard against the improper use of Mr. Kwok's confidential information by Cahill against him, we most respectfully request that the Court adjourn tomorrow's conference pending resolution of this issue and set a briefing schedule for Mr. Kwok's motion to disqualify counsel.

Cahill was (and may still be) counsel to investigated parties of an investigation by the SEC into matters at issue in this case. Mr. Kwok, who was likewise an investigated party of that investigation, was party to a joint defense agreement with Cahill's clients. Pursuant to that joint defense agreement, Mr. Kwok shared confidential information with, and received privileged advice from, Cahill bearing, among other things, on his decision to invoke his Fifth Amendment rights. Mr. Kwok, who is represented by counsel in the SEC and related matters, shared confidential information and authorized his counsel to share confidential information with Cahill. The SEC investigation is ongoing.

Because Cahill received Mr. Kwok's confidential information pursuant to a joint defense agreement in a matter substantially related to this case, it is prohibited from representing Mr. Kwok's adversary here. *See Feygin v. Martell*, 283 A.D.2d 304 (1st Dep't 2001). Having

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confided in confidence with Cahill in the course of seeking and receiving legal advice subject to a joint defense agreement, Mr. Kwok and his confidential information would be irreparably prejudiced by that firm now appearing on behalf of the adverse party in this action.

We have conferred with the Cahill firm regarding this matter. They have indicated that they have a different position with regard to the conflict issue. Accordingly, we will be making a motion to disqualify Cahill on behalf of Mr. Kwok and we ask that tomorrow's conference be adjourned until the issue of Cahill's appearance is heard and determined.

Sincerely,

s/ John Siegal

John Siegal

cc: All Counsel