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12 [Additional counsel appear on signature page.]

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SANTA CLARA

15 MATT WOLTHER, Individually and on )  
16 Behalf of All Others Similarly Situated, )  
17 Plaintiff, )

18 vs. )

19 SHUBHAM MAHESHWARI, et al., )  
20 Defendants. )

Lead Case No. 18CV329690  
(Consolidated with No. 18CV332463 and  
No. 18CV332644)

CLASS ACTION

PLAINTIFFS' NOTICE OF NON-  
OPPOSITION IN SUPPORT OF MOTIONS  
FOR: (1) FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND APPROVAL  
OF PLAN OF ALLOCATION; AND (2) AN  
AWARD OF ATTORNEYS' FEES AND  
EXPENSES AND AWARDS TO CLASS  
REPRESENTATIVES PURSUANT TO 15.  
U.S.C. §77Z-1(A)(4)

DATE: June 23, 2022  
TIME: 1:30 p.m.  
DEPT: 1  
JUDGE: Hon. Sunil R. Kulkarni  
Date Action Filed: June 8, 2018

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PLAINTIFFS' NOTICE OF NON-OPPOSITION IN SUPPORT OF MOTIONS FOR: (1) FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION; AND (2) AN AWARD OF ATTORNEYS' FEES  
AND EXPENSES AND AWARDS TO CLASS REPRESENTATIVES PURSUANT TO 15. U.S.C. §77z-1(a)(4)

1 Plaintiffs and Class Representatives Iron Workers District Council of New England Pension  
2 Fund and Construction Workers Pension Trust Fund – Lake County and Vicinity (“Class  
3 Representatives” or “Plaintiffs”) respectfully submit this notice of non-opposition in further support of  
4 the motions for: (1) final approval of class action settlement and for approval of the proposed plan  
5 allocation of settlement proceeds (the “Plan of Allocation”); and (2) an award of attorneys’ fees and  
6 expenses and awards to Class Representatives pursuant to 15 U.S.C. §77z-1(a)(4).<sup>1</sup>

7 **I. INTRODUCTION**

8 By Order dated December 1, 2021, the Court granted preliminary approval of the Settlement.  
9 The Court originally set the final approval hearing date for April 21, 2022, but then continued that date  
10 and requested that Plaintiffs provide additional information about the claims submitted by class  
11 members. *See* March 31, 2022 Tentative Ruling. The Court’s prior tentative requested supplemental  
12 information about the following topics: (1) an accounting and analysis of the results of the claims  
13 process for the Court’s consideration and (2) a declaration by the claims administrator detailing its  
14 actual expenses associated with administering the Settlement. In accordance with the Court’s order,  
15 Plaintiffs provide the following supplemental information.

16 **II. SUPPLEMENTAL INFORMATION IN RESPONSE TO THE COURT’S  
17 REQUEST**

18 **A. An Accounting and Analysis of the Claims Submitted by Class Members**

19 The deadline to submit claim forms by class members was March 22, 2022. As of June 10,  
20 2022, a total of **3,204 claims** were submitted by class members in response to 21,450 Claim Packages  
21 sent by the Claims Administrator (Gilardi & Co. LLC) to potential Class Members and nominees. *See*  
22 Supplemental Declaration #2 of Ross D. Murray Regarding Notice Dissemination, Requests for  
23 Exclusion Received to Date, Interim Claims Processing, and Administrative Fees and Expenses (“Supp.  
24 Murray Decl. #2”), ¶9, filed herewith. As of February 3, 2022, the Claims Administrator had mailed  
25 20,494 copies of the Court-approved Notice of Proposed Settlement of Class Action (the “Notice”) and

26 <sup>1</sup> Unless indicated otherwise, all capitalized terms shall have the same meaning as set forth in the  
27 Amended Stipulation of Settlement dated November 30, 2021 (“Stipulation”).

1 Proof of Claim and Release form (the “Proof of Claim”) (collectively, the “Claim Package”) to potential  
2 Class Members and their nominees. Subsequent to February 3, 2022, Gilardi mailed an additional  
3 3,998 copies of the Claim Package in response to requests from potential Class Members, brokers, and  
4 nominees and as a result of mail returned as undeliverable for which new addresses were identified and  
5 re-mailed to those new addresses.<sup>2</sup>

6 The Notice advised Class Members of the February 21, 2022 deadline for requesting exclusion  
7 from the Class and for filing objections to the proposed Settlement, the Plan of Allocation, and/or the  
8 requested attorneys’ fees and expenses, including awards to the Class Representatives. The deadline  
9 has now passed, and only two requests for exclusion from the Class were received and no objections to  
10 the Settlement, Plan of Allocation, or fee and expense request were filed. *See* Supp. Murray Decl. #2,  
11 ¶7.<sup>3</sup> The overwhelmingly favorable reaction of the members of the Class supports the reasonableness  
12 of the Settlement, the Plan of Allocation, and counsel’s fee and expense requests. *See Nat’l Rural*  
13 *Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (absence of large number  
14 of objections raises a strong presumption that settlement is fair to the class); *Hanlon v. Chrysler Corp.*,  
15 150 F.3d 1011, 1026 (9th Cir. 1998) (“reaction of the class members to the proposed settlement” is a  
16 factor to be considered in assessing the adequacy of the settlement).

17 Claims processing is ongoing and the 3,204 submitted claims are being reviewed by the Claims  
18 Administrator to verify valid claims, reject invalid ones, resolve any errors in data submitted with the  
19 claims, and identify claims with other types of deficiencies or issues, such as duplicate submissions and  
20 claims which lack the supporting documentation required. Supp. Murray Decl. #2, ¶10. Furthermore, if  
21 a deficiency in a claim cannot be resolved by an analyst, the claimant will be notified of that deficiency

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23 <sup>2</sup> In addition, as noted in prior filings with the Court, the Summary Notice was published in *The Wall*  
24 *Street Journal* and over the *Business Wire*. *See* previously-filed Declaration of Ross D. Murray, ¶12.  
25 Relevant documents concerning the Settlement – including the Stipulation, the Notice, the Proof of  
26 Claim, and the Notice Order – were posted to the Settlement website,  
27 [www.VeecoSecuritiesSettlement.com](http://www.VeecoSecuritiesSettlement.com), which was identified in both the Notice and Summary Notice.  
*Id.*, ¶14.

28 <sup>3</sup> Only one of the two opt-outs is valid; one does not provide the requisite information; *i.e.*, the  
number of shares acquired in the Merger.

1 and provided with an opportunity to respond with further information or documentation to resolve the  
2 issue. *Id.* As these reviews and amendments to claims often impact the status and recognized loss of  
3 the claim, the total number of valid claims, the recognized losses of those claims, and amount of  
4 average per share payment is not available until claims processing is complete. *Id.*

5 However, based on the preliminary processing completed to-date, the Claims Administrator has  
6 identified 45 duplicate claims submitted by Class Members. Approximately 725 claims have  
7 preliminarily been found to be valid, although further auditing of those claims may result in some  
8 becoming invalid. The remaining claims have deficiencies or are otherwise invalid, although  
9 processing is still underway. Certain deficiencies may be waived or these Class Members may be  
10 otherwise able to cure their deficient claims, resulting in those claims becoming valid.

11 With respect to an estimated per-share recovery, calculation of that figure requires the total  
12 number of participating shares represented by valid claims, and the amount of fees and expenses  
13 awarded by the Court. As of this date, with the caveat that this number is certain to change,  
14 approximately 6.28 million shares have preliminarily been deemed valid. This results in a recovery per  
15 share of \$2.38, before deduction of attorneys' fees, litigation expenses, and costs of administration.  
16 Plaintiffs' Counsel have requested a fee of \$5,000,000, litigation expenses of \$127,985.56, and awards  
17 to Plaintiffs of \$18,800, in the aggregate. Claims Administration is estimated to cost \$350,000. Using  
18 these amounts as maximum possible deductions from the Settlement Fund, or \$5,496,785.56, the  
19 estimated net, per share recovery would be \$1.51.

20 **B. The Amount of Expenses Incurred by the Claims Administrator**

21 The total expenses incurred to-date by the Claims Administrator is \$185,998.38. Supp. Murray  
22 Decl. #2, ¶14.

23 **III. THE COURT SHOULD GRANT FINAL APPROVAL OF THE  
24 SETTLEMENT AT THIS TIME**

25 The parties are mindful of the Court's desire, expressed at the last hearing, for more information  
26 about the number of valid claims, duplicate claims, and estimated per-share recovery. The information  
27 provided herein provides that information, to the extent known at this time by Plaintiffs' Counsel and

1 the Claims Administrator. Exact, final figures are not possible at this time, given the ongoing work of  
2 the Claims Administrator and the preliminary state of claims processing. This is normal and typical in  
3 every securities litigation class action settlement. Accurate claims administration takes time. The  
4 parties respectfully submit that the Court should grant final approval to the Settlement at this time, and  
5 not delay final approval any further, as the parties need finality of the Settlement for many purposes,  
6 including starting the time period for the judgment to become final, which only starts to run after entry  
7 of judgment. In addition, as the costs of claims administration are ongoing, counsel is hesitant to keep  
8 incurring those costs if the Court is not inclined to approve the Settlement.

9       The normal procedure for providing more detailed and final information about the claims  
10 process is for the parties to submit a final Post-Distribution Accounting to the Court, as is done in the  
11 Northern District of California. *See* Procedural Guidance for Class Action Settlements, the United  
12 States District Court for the Northern District of California.<sup>4</sup> Thus, in the Northern District, the Court  
13 requires a final submission within 21 days of the final distribution of the settlement fund, providing  
14 information about many of the same topics this Court has identified, including “The total settlement  
15 fund, the total number of class members, the total number of class members to whom notice was sent  
16 and not returned as undeliverable, the number and percentage of claim forms submitted, the number and  
17 percentage of opt-outs, the number and percentage of objections, [and] the average and median recovery  
18 per claimant.” Plaintiffs will provide that information at the conclusion of claims administration. In the  
19 meantime, Plaintiffs respectfully submit that final approval should be granted now and that Plaintiffs be  
20 ordered to provide a final Post-Distribution Accounting within 21 days of the final distribution of  
21 settlement proceeds to Class Members.

#### 22 **IV. CONCLUSION**

23       As the Settlement has received overwhelming support from the Class, and a significant number  
24 of Class Members have submitted claims, evidencing their approval, Class Representatives respectfully  
25 request that: (1) the Motion for Final Approval of Class Action Settlement and Approval of Plan of  
26

27 <sup>4</sup> Available at <https://cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/>.

1 Allocation and the Motion for an Award of Attorneys' Fees and Expenses and Awards to Class  
2 Representatives Pursuant to 15 U.S.C. §77z-1(a)(4) be granted; and (2) the Order and Final Judgment  
3 and the proposed order awarding fees and expenses be entered.

4 DATED: June 16, 2022

Respectfully submitted,

5 ROBBINS GELLER RUDMAN  
6 & DOWD LLP  
7 ELLEN GUSIKOFF STEWART  
8 JAMES I. JACONETTE



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*Additional Counsel for Plaintiffs*

1 **DECLARATION OF SERVICE BY EMAIL**

2 I, Mara Waligurski, am and was, at all times herein mentioned, a citizen of the United States and  
3 a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in  
4 the within action, and have a business address of 655 West Broadway, Suite 1900, San Diego,  
5 California 92101.

6 I hereby declare that on June 16, 2022, I caused to be served the attached Plaintiffs' Notice of  
7 Non-Opposition in Support of Motions for: (1) Final Approval of Class Action Settlement and  
8 Approval of Plan of Allocation; and (2) an Award of Attorneys' Fees and Expenses and Awards to  
9 Class Representatives Pursuant to 15 U.S.C. §77z-1(a)(4) on the parties in the within action by emailing  
10 a copy to the addresses below:

11 **COUNSEL FOR PLAINTIFFS:**

12 <b>NAME</b>	13 <b>FIRM</b>	14 <b>EMAIL</b>
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6 I declare under penalty of perjury that the foregoing is true and correct. Executed on June 16,  
7 2022, at San Diego, California.

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10 \_\_\_\_\_  
MARA WALIGURSKI