

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

|                                     |   |                         |
|-------------------------------------|---|-------------------------|
| _____                               | X |                         |
| In re LUCKIN COFFEE INC. SECURITIES | : | Index No. 651939/2020   |
| LITIGATION                          | : |                         |
|                                     | : |                         |
|                                     | : | <u>CLASS ACTION</u>     |
| _____                               | : |                         |
| This Document Relates To:           | : | Motion Sequence No. 012 |
|                                     | : |                         |
| THE CONSOLIDATED ACTION.            | : |                         |
|                                     | : |                         |
| _____                               | X |                         |

**AFFIDAVIT OF MICHAEL BERGENHOLTZ IN SUPPORT OF  
FINAL APPROVAL OF SETTLEMENT, APPLICATION FOR AN  
AWARD OF ATTORNEYS' FEES AND EXPENSES, AND PLAINTIFF AWARD**

STATE OF TEXAS            )  
                  DALLAS        ) ss  
COUNTY OF COLLIN        )

BEFORE ME, the undersigned authority this day personally appeared MICHAEL BERGENHOLTZ, who, after being by me duly sworn on oath, deposes and says:

1. I am over the age of 18 and am a resident of the State of Texas. I have personal knowledge of the facts herein and, if called as a witness, could testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts below. If called as a witness, I could competently testify thereto.
3. I am a named plaintiff and (with Kimson Chemical, Inc., Teamsters Local 710 Pension Fund, and City of Fort Myers Police Officers' Retirement System) one of four court-appointed class representatives of the Settlement Class in the above-captioned securities class action (the "Action"). I respectfully submit this affidavit in support of: (1) Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation; (2) Plaintiffs' Counsel's Application for Attorneys' Fees and Litigation Expenses; and (3) Awards to Named Plaintiffs

(including my application for a service award of \$3,200 for the time and effort I have spent on behalf of the Settlement Class in this matter).

4. I purchased Luckin Coffee, Inc. (“Luckin”) American Depositary Receipts (“ADRs”) on May 30, 2019, May 31, 2019, June 3, 2019, September 30, 2019, December 31, 2019, and January 9, 2020, “pursuant or traceable to” the registration statement in connection with Luckin’s May 17, 2019 initial public offering. I also purchased Luckin ADRs on January 10, 2020, January 13, 2020, January 14, 2020, January 16, 2020, January 17, 2020, January 21, 2020, January 22, 2020, January 30, 2020, and March 31, 2020, “pursuant or traceable to” the registration statement in connection with Luckin’s January 10, 2020 secondary public offering, and thus suffered losses as a result of my Class Period transactions in Luckin ADRs.

5. Since the start of this Action and to date, I have been committed to assisting my counsel, Berger Montague PC, and serving the best interests of the Settlement Class. In doing so, I performed what I believe to be critical tasks to help protect the Settlement Class and ensure that the Action was vigorously prosecuted, including:

(a) regularly communicating with my counsel by telephone and email regarding the case, including concerning: my ADS transactions, relevant documents, duties and responsibilities as a proposed class representative, participation in the litigation and settlement, and review of material documents related to the Action;

(b) conducting independent research regarding Luckin and the performance of Luckin ADRs, and otherwise remaining informed as to material events related to Luckin and the Action;

(c) discussing with my counsel case strategy for, and status updates regarding, the Action; and

(d) reviewing, analyzing, and discussing with my counsel the following documents in and related to this Action, including but not limited to: (i) the complaints filed in the Action; (ii) briefing related to Defendants' motion to dismiss; (iii) mediation submissions; (iv) drafts of the Stipulation, exhibits thereto, and other settlement related documents; and (v) case updates and other correspondence from my counsel regarding the status of the Action and/or litigation strategy.

6. When settlement discussions arose, as part of my duty to act in the best interests of the Settlement Class, I provided input and direction regarding settlement strategy. In connection with the settlement-related discussions, I discussed with my counsel the strengths and weaknesses of the Action, the risk of proceeding forward with the Action, and the prospect of settlement. After the foregoing review and discussions, I provided my counsel with settlement authority. Thereafter, given Plaintiffs' Counsel's vigorous settlement negotiations as well as my own efforts in this matter, the Action was able to settle for \$7,000,000.00.

7. Given my experience and effort expended understanding, overseeing, and participating in the Action, and when weighing the merits and risks of the Action with, and benefits of, litigating as opposed to settling the Action, I believe the \$7,000,000.00 settlement is an excellent result for the Settlement Class. The Settlement could not have been accomplished without Plaintiffs' Counsel's relentless prosecution of the Action. Therefore, I believe the Settlement represents a fair, reasonable, and adequate recovery on behalf of the Settlement Class, and that its approval is in the best interests of each Settlement Class Member.

8. Furthermore, I have approved and support Plaintiffs' Counsel's request for an award of attorneys' fees of up to thirty-three and 1/3 percent (33.33%) of the Settlement Amount. I believe this requested fee is reasonable in light of the expertise of legal counsel, the amount of work they performed towards the successful resolution of the Action against Defendants, the

complexity of prosecuting the Action, the large amount of out-of-pocket expenses they incurred, and the fact that the case has been pursued at considerable risk with no guarantee of recovery.

9. I also support payment of attorneys' expenses as requested, as I believe these expenses to have been reasonably incurred by legal counsel in the course of prosecuting the Action on the Settlement Class's behalf.

10. In accordance with my duties as a lead plaintiff, I have not received, nor have I been promised or offered, any financial incentive or compensation for serving as a plaintiff in the Action. Nevertheless, I understand that courts may authorize an award to a representative serving on behalf of a settlement class directly relating to their representation of that class. While 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 Plaintiffs (Kimson Chemical, Inc., Teamsters Local 710 Pension Fund, and City of Fort Myers Police Officers' Retirement System and myself) to seek awards not to exceed \$20,000.00 in the aggregate for their efforts in bringing and prosecuting the Action. I estimate that I spent 16 hours in discussing litigation strategy, case developments, and settlement negotiations with Plaintiffs' Counsel, collecting materials in anticipation of discovery, and reviewing case-related documents. I therefore respectfully request a service award of \$3,200.00 in connection with the time and effort I spent representing the Settlement Class in the Action. Based on my overall level of compensation, I believe that an award that equates to an hourly rate of roughly \$200 is reasonable, appropriate, and commensurate with the hourly rate at which I'm compensated in my party planning business. In sum, I respectfully request that the Court approve the Settlement, approve the attorneys' fee request of up to thirty-three and 1/3 percent (33.33%) of the Settlement Amount and full payment of legal expenses, and grant an award to me in the amount of \$3,200 in light of my time and effort expended in pursuing the Action.

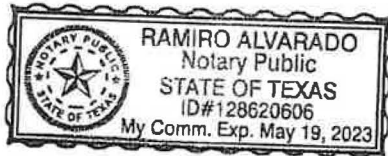
I state under penalty of perjury under the laws of the State of New York that the foregoing is true and correct. Executed this 8 day of December, 2022, at \_\_\_\_\_.


  
MICHAEL BERGENHOLTZ

NOTARY ACKNOWLEDGEMENT

STATE OF TEXAS )  
                  DALLAS ) ss  
COUNTY OF COLLIN )

This Affidavit was acknowledged before me this 8<sup>th</sup> day of December, 2022, by Michael Bergholtz, who, being first duly sworn on oath according to law, deposes and says that he has read the foregoing Affidavit subscribed by him, and that the matters stated herein are true to the best of his information, knowledge, and belief.



  
Notary Public

My commission expires 05-19-2023

**PRINTING SPECIFICATIONS STATEMENT**

1. Pursuant to 22 N.Y.C.R.R. § 202.70(g), Rule 17, the undersigned counsel certifies that the foregoing affidavit 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 affidavit, inclusive of point headings and footnotes and exclusive of the caption, signature block, and this Certification, is 1,156 words.

DATED: December 9, 2022

BERGER MONTAGUE PC



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