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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 MARK WINTER, et al.,

4 Plaintiffs,

5 v.

22-cv-03088-RA

6 STRONGHOLD DIGITAL MINING,  
7 INC., et al.,

Conference

8 Defendants.

9 -----x

New York, N.Y.  
April 11, 2025  
3:00 p.m.

10  
11 Before:

12 HON. RONNIE ABRAMS,

13 District Judge

14 APPEARANCES

15 THE ROSEN LAW FIRM PA  
16 Attorneys for Plaintiffs  
17 BY: JONATHAN STERN

VINSON & ELKINS LLP  
18 Attorneys for Defendants Gregory Beard, William Spence,  
and Stronghold Holdings  
19 BY: CLIFFORD L. THAU

20 WILLKIE FARR & GALLAGHER LLP  
21 Attorneys for Underwriter Defendants  
BY: JEFFREY B. KORN

22 FAEGRE DRINKER BIDDLE & REATH LLP  
23 Attorneys for Defendant Ricardo Larroude  
BY: SANDRA D. GRANNUM

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1 (Case called)

2 MR. STERN: Jonathan Stern, of the Rosen Law Firm, for  
3 Lead Plaintiff Allegheny Employees Retirement System and the  
4 class.

5 THE COURT: Good afternoon.

6 MR. STERN: Good afternoon, your Honor.

7 MR. THAU: Good afternoon, your Honor. Cliff Thau for  
8 Stronghold and Individuals Greg Beard and William Spence and  
9 Stronghold Holdings.

10 MR. KORN: Good afternoon, your Honor. Jeffrey Korn,  
11 of Willkie Farr & Gallagher, for the underwriter defendants.

12 THE COURT: Good afternoon.

13 MS. GRANNUM: Good afternoon, your Honor. Sandra  
14 Grannum, with Faegre Drinker, for defendant Ricardo Larroude.

15 THE COURT: Thank you, all, for being here.

16 We are here, of course, for a hearing for the final  
17 approval of a class action settlement.

18 So, would plaintiff like to be heard? I've obviously  
19 reviewed the materials, but if there's anything you'd like to  
20 say for the record, let me know.

21 MR. STERN: Your Honor, if there's anything specific  
22 you want to be heard on, I'm prepared to do so, but, if not, we  
23 are prepared to proceed.

24 THE COURT: How many claims have been filed to date?

25 MR. STERN: I believe it was about 10,000 claims,

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1 representing about \$60 million.

2 THE COURT: And I'm just going to confirm, since the  
3 filing of this, that no objections have been filed?

4 MR. STERN: No objections have been filed. We had one  
5 potential shareholder contacting us, saying he wanted to be  
6 excluded, but he didn't provide any documentation for  
7 exclusion. So we've had no objections and no valid requests.

8 THE COURT: And approximately 10,000 claims, was it?

9 MR. STERN: Yes.

10 THE COURT: Would any of the defendants like to be  
11 heard?

12 MR. THAU: Not unless your Honor has any questions for  
13 us.

14 THE COURT: I don't think so. Thank you.

15 MR. THAU: One question for you, your Honor: Do you  
16 want your door open, or do you care?

17 THE COURT: I do not care, as long as it's not locked.  
18 It's a public courtroom. But is it hard to hear?

19 MR. THAU: No. I'm just asking.

20 THE COURT: No, it's fine. Thank you.

21 So I'm ready to rule. I'm going to do it orally just  
22 for efficiency. I know it can be a little bit painful, but you  
23 will, of course, have a transcript, which you can and should  
24 order from the court reporter.

25 So, Lead Plaintiff Allegheny County Employees

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1 Retirement System, on behalf of itself and the settlement  
2 class, and Defendants Stronghold Digital Mining, Inc.  
3 ("Stronghold"), Gregory A. Beard, William B. Spence, B. Riley  
4 Securities, Inc., Cowen and Company, LLC, Tudor, Pickering,  
5 Holt & Co. Securities, LLC, D.A. Davidson & Co., Compass Point  
6 Research & Trading, LLC, Northland Securities, Inc., and  
7 Ricardo R. A. Larroudé, have entered into a class-action  
8 settlement agreement to resolve claims of violations of the  
9 Securities Act. Specifically, Plaintiffs allege that  
10 Stronghold's offering documents contained false and/or  
11 misleading statements.

12 On December 16, 2024, pursuant to Rule 23 of the  
13 Federal Rules of Civil Procedure, the Court preliminarily  
14 certified a settlement class. The settlement class-subject to  
15 certain exclusions-was defined as: "all persons and entities  
16 who or which purchased or otherwise acquired Stronghold Class A  
17 common stock on or before December 20, 2021, pursuant and/or  
18 traceable to the Offering Documents issued in connection with  
19 the Class A common stock initial public offering in October  
20 2021, and were damaged thereby." Preliminary Approval Order at  
21 2-3, ECF No. 125.

22 "In addition, the Court preliminarily found that the  
23 settlement class met all the Federal Rule of Civil Procedure 23  
24 prerequisites for class certification, for the purpose of  
25 settlement only, including numerosity, commonality, typicality,

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1 predominance of common issues, and superiority. *Id.* at 3-4.  
2 No material changes have occurred since that order that would  
3 alter this Court's ruling. The Court therefore now finally  
4 approves certification of the settlement class.

5 Rule 23(e) requires court approval of a class action  
6 settlement to ensure that it is procedurally and substantively  
7 fair, reasonable, and adequate. Fed. R. Civ. P. 23(e).

8 I will turn now to Rule 23(e), which requires me to  
9 consider four factors.

10 The Second Circuit has explained that "the first two  
11 factors are procedural in nature and the latter two guide the  
12 substantive review of a proposed settlement." *Moses v. New*  
13 *York Times Co.*, 79 F.4th 235, 242 (2d Cir. 2023). I will  
14 address each factor in turn.

15 The first Rule 23(e) factor is whether the class  
16 representatives and class counsel have adequately represented  
17 the class, which "typically entails inquiry into whether: (1)  
18 plaintiff's interests are antagonistic to the interest of other  
19 members of the class and (2) plaintiff's attorneys are  
20 qualified, experienced and able to conduct the litigation."  
21 *Cordes & Co. Fin. Servs. v. A.G. Edwards & Sons, Inc.*, 502 F.3d  
22 91, 99 (2d Cir. 2007).

23 Here, Lead Plaintiff does not have interests that are  
24 antagonistic or at odds with the putative class. Indeed, its  
25 "interests are aligned with other class members' interests

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1 because they suffered the same [alleged] injuries," *In re GSE*  
2 *Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 692 (S.D.N.Y.  
3 2019)-namely, injury resulting from Defendants' alleged  
4 violations of the Securities Act. The record also reflects  
5 that lead counsel is experienced and qualified and prosecuted  
6 this case vigorously for its duration. Stern Decl. 67, ECF  
7 No. 131. Accordingly, I find that the first Rule 23(e) factor  
8 is satisfied.

9 The Court further finds that the settlement was  
10 reached after engaging in a mediation before Greg Danilow. See  
11 Danilow Decl, ECF No. 131-1. The mediator's participation  
12 underscores that it is the product of non-collusive,  
13 arm's-length negotiations. See *D'Amato v. Deutsche Bank*, 236  
14 F.3d 78, 85 (2d Cir. 2001). The second Rule 23(e) factor is  
15 therefore satisfied.

16 I will now turn to the third and fourth Rule 23(e)  
17 factors. To guide my consideration of these factors, I look to  
18 the nine factors set forth in the Second Circuit's decision  
19 *City of Detroit v. Grinnell Corp.*, 495 F.2d 448 (2d Cir. 1974),  
20 which "largely overlap" with Rule 23(e), *Moses*, 79 F.4th at  
21 244.

22 The third Rule 23(e) factor requires me to consider  
23 whether the relief provided for the class is adequate, taking  
24 into account the costs, risks, and delay of trial and appeal.  
25 "This assessment implicates several Grinnell factors." *In re*

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1 *Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*,  
2 330 F.R.D. 11, 36 (E.D.N.Y. 2019).

3         The first *Grinnell* factor considers the complexity,  
4 expense and likely duration of the litigation. Litigation  
5 through trial would be complex, expensive, and long. Indeed,  
6 "securities class actions are by their very nature complicated  
7 and district courts in this Circuit have long recognized that  
8 [they] are notably difficult and notoriously uncertain to  
9 litigate." *City of Providence v. Aeropostale*, 2014 WL 1883494,  
10 at \*5 (S.D.N.Y. May 9, 2014). Further litigation would have  
11 involved extensive fact and expert discovery, a class  
12 certification motion, summary judgment motions, and *Daubert*  
13 motions. That, plus trial on several potentially complicated  
14 issues and any subsequent appeal, would require significant  
15 time and expense. This factor favors final approval as well.

16         Next are the fourth, fifth, and sixth *Grinnell*  
17 factors: the risks of establishing liability; the risks of  
18 establishing damages; and the risks of maintaining the class  
19 through the trial. These factors also favor approval. "In  
20 assessing the risks of liability, a court need not decide the  
21 merits of the case, resolve unsettled legal questions, or  
22 attempt to predict the outcome. Rather, a court need only  
23 assess the risks of litigation against the certainty of  
24 recovery under the proposed settlement." *In re Namenda Direct*  
25 *Purchaser Antitrust Litigation*, 462 F. Supp. 3d 307, 313

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1 (S.D.N.Y. 2020).

2 Here, Plaintiffs would have faced numerous risks if  
3 they had continued to litigate. For example, Plaintiffs may  
4 have failed to establish that Stronghold's offering documents  
5 contained materially false or misleading statements and may  
6 have failed to refute Defendants' affirmative defenses.  
7 Additionally, Plaintiffs would have faced significant  
8 challenges in proving damages, which in securities cases is a  
9 "a complicated and uncertain process, typically involving  
10 conflicting expert opinion about the difference between the  
11 purchase price and the stock's true value absent the alleged  
12 fraud." *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D.  
13 436, 459 (S.D.N.Y. 2004).

14 Just to be clear, I'm quoting from a number of cases  
15 that are very familiar to you all. I'm not going to cite them  
16 just for efficiency today, but what I can do, if you'd like me  
17 to do it, is just have the court reporter add in the case  
18 citations into the transcript.

19 Is everyone comfortable with that practice?

20 MR. STERN: Yes, your Honor.

21 MR. THAU: Yes, your Honor.

22 THE COURT: That is especially so here, where  
23 Defendants would have advanced a negative causation defense.

24 Finally, Defendants would have opposed class  
25 certification. Plaintiffs faced a risk that one or more of

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1 Defendants' arguments would succeed. The proposed settlement  
2 eliminates that risk.

3 I must next consider "the effectiveness of any  
4 proposed method of distributing relief to the class, including  
5 the method of processing class-member claims." Rule  
6 23(e)(C)(ii). "To warrant approval, the plan of allocation must  
7 also meet the standards by which the settlement was  
8 scrutinized — namely, it must be fair and adequate. An  
9 allocation formula need only have a reasonable, rational basis,  
10 particularly if recommended by experienced and competent class  
11 counsel." *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d  
12 319, 344 (S.D.N.Y. 2005). "In determining whether a plan of  
13 allocation is fair, courts look primarily to the opinion of  
14 counsel." *In re EVCI Career Colleges Holding Corp. Securities*  
15 *Litigation*, Nos. 05-cv-10240 et al. (CM), 2007 WL 2230177, at  
16 \*11 (S.D.N.Y. July 27, 2007).

17 First, I find that the notice plan and proposed method  
18 of distribution — as described in both the Settlement Agreement  
19 and the Declaration of Sarah Evans, ECF No. 131-2, among other  
20 sources — are effective and consistent with standard means that  
21 are frequently used in similar class actions. Second, because  
22 the plan of allocation has a clear rational basis, treats class  
23 members equitably, and was devised by experienced class  
24 counsel, I find it fair and adequate.

25 I next consider "the terms of any proposed award of

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1 attorney's fees, including timing of payment." Rule  
2 23(e)(C)(iii). Pursuant to Rule 23(h), class counsel seeks  
3 attorneys' fees equal to approximately one-third of the  
4 settlement fund. The trend in the Second Circuit is to use the  
5 percentage-of-the-fund method to compensate attorneys in  
6 common-fund cases, although the Court has discretion to award  
7 attorneys' fees based on either the lodestar method or the  
8 percentage-of-recovery method. See, e.g., *Fikes Wholesale,*  
9 *Inc. v. HSBC Bank USA, N.A.*, 62 F.4th 704, 723 (2d Cir. 2023).

10 Reasonableness is the touchstone when determining  
11 whether to award attorneys' fees. In *Goldberger v. Integrated*  
12 *Resources, Inc.*, 209 F.3d 43 (2d Cir. 2000), the Second Circuit  
13 set forth six factors to determine the reasonableness of a fee  
14 application.

15 Regarding the first *Goldberger* factor, the time and  
16 labor expended by counsel, Plaintiffs' counsel claims that they  
17 spent 1,987.9 hours on the litigation over the course of this  
18 action, which included extensive motion practice, discovery,  
19 and settlement negotiations. Stern Decl. 69.

20 Regarding the second and third *Goldberger* factors,  
21 this action had the potential to be complex and risky, as  
22 "[s]ecurities class actions such as this are notably difficult  
23 and notoriously uncertain." *In re Flag Telecom Holdings, Ltd.*  
24 *Sec. Litig.*, 2010 WL 4537550, at \*27 (S.D.N.Y. Nov. 8, 2010).

25 Regarding the fourth, fifth, and sixth *Goldberger*

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1 factors, counsel are experienced in this area and have provided  
2 vigorous representation. See Stern Decl., ECF No. 131.  
3 District courts in this Circuit routinely award one-third  
4 percentage recoveries in contingency-fee cases. See *Knapp v.*  
5 *Badger Techs., Inc.*, No. 12-CV-6637-CJS-MWP, 2015 WL 3745303  
6 (W.D.N.Y. June 15, 2015) (collecting cases); *In re J.P. Morgan*  
7 *Stable Value Fund ERISA Litig.*, No. 12-CV-2548 (VSB), 2019 WL  
8 4734396 (S.D.N.Y. Sept. 23, 2019); see also *Solis v. OrthoNet*  
9 *LLC*, No. 19-CV-4678 (VSB), 2021 WL 2678651, at \*2 (S.D.N.Y.  
10 June 30, 2021) (collecting FLSA cases).

11 Additionally, no class member has objected to or  
12 requested exclusion from the settlement, which favors approval.  
13 See, e.g., *Guevoura Fund Ltd. v. Sillerman*, No. 1:18-cv-09784  
14 (CM), 2019 WL 6889901, at \*22 (absence of objections "militates  
15 in favor of approval of the [f]ees as requested.").

16 It seems like one did request exclusion but didn't  
17 provide the necessary documentation to be excluded.

18 Is that correct?

19 MR. STERN: Yes. And, therefore, we actually don't  
20 know if this person was actually a class member because we  
21 don't know when their trades were or how many trades they had.  
22 They provided no documentation.

23 THE COURT: Did you indicate to that person what  
24 documentation needed to be provided and by when?

25 MR. STERN: Yes. We indicated that they needed to

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1 provide trading documentation and the deadline. And the person  
2 replied, I believe, that they didn't have any records of their  
3 trades.

4 THE COURT: That's what they said?

5 MR. STERN: That's what they said, yes.

6 THE COURT: Okay.

7 Having considered these factors, I find that the  
8 contingent fee is reasonable under the circumstances.

9 Additionally, the parties have represented that the  
10 Bitcoin-indexed portion of the fee award will be paid in  
11 installments, in accordance with the payment schedule set forth  
12 in paragraph 6 of the settlement agreement. I want to make  
13 clear that my approval of the fee award requires it to be paid  
14 in that manner — that is, on the same schedule as the payments  
15 to the class. Doing so guarantees that, at the end of the  
16 two-year installment period, the fee award will constitute a  
17 reasonable fee in relation to the real value of the settlement  
18 fund, and not only in relation to the nominal value of the  
19 fund.

20 The proposed one-third fee is also reasonable when  
21 "cross-checked" against the lodestar amount. See *Goldberger*,  
22 209 F.3d at 50. Based on counsel's current billing rates, the  
23 lodestar amount is \$1,932,793.60. Stern Decl. 69. The cash  
24 portion of the fee award is \$1.58 million, which is a lodestar  
25 cross-check multiplier of 0.82.

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1 Courts within this district have awarded lodestar  
2 multiples over four in common-fund cases. See *In re BioScrip,*  
3 *Inc. Securities Litigation*, 273 F. Supp. 3d 474, 497 (S.D.N.Y.  
4 2017) (collecting cases); see also *Parker v. Jekyll & Hyde*  
5 *Entm't Holdings, L.L.C.*, No. 08-cv-7670, 2010 WL 532960, at \*2  
6 (S.D.N.Y. Feb. 9, 2010) ("[A]s class counsel is likely to  
7 expend significant effort in the future implementing the  
8 complex procedure agreed upon for collecting and distributing  
9 the settlement funds, the multiplier will diminish over  
10 time.").

11 As of this morning, Bitcoin was priced at  
12 approximately \$82,000, making the Bitcoin-indexed portion of  
13 the fee award worth approximately \$683,333, and the total fee  
14 award worth \$2,263,333. Thus, at today's Bitcoin price, the  
15 overall lodestar cross-check multiplier is 1.17. Given (1) the  
16 relatively low likelihood that, over the next two years,  
17 Bitcoin's value will increase so significantly that counsel's  
18 fee award will grow unreasonably large; (2) the fact that any  
19 such increase would accrue equally to the benefit of the class;  
20 and (3) that counsel also assume the risk that Bitcoin will  
21 decrease in value, I find the fee to be reasonable in relation  
22 to the value of the work performed.

23 Just to pause there, would you all agree with  
24 everything I just stated?

25 MR. STERN: Yes, your Honor. Just for clarification,

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1 so the fee will be paid monthly. Our intention is that we will  
2 file for a motion for distribution once or possibly twice,  
3 depending on how long it takes to get that to us. But we were  
4 going to collect our fee on a monthly basis for class counsel,  
5 but the fee that will go to the clients -- or for the class  
6 members just for efficiency sake, we would send out just one or  
7 two checks.

8 THE COURT: I just want to make sure that I have a  
9 full understanding of how this is going to be calculated in  
10 light of that.

11 MR. STERN: Yes, so the calculation will be exactly  
12 identical. Each time that a payment is made from the Bitcoin  
13 portion over the next 24 months minus -- it's actually the next  
14 21 months at this point -- we would extract one-third of that.  
15 And so we would use the value that is paid on each month, and  
16 that would be the portion of the plaintiffs' counsel's fee.

17 THE COURT: And I know I asked for a letter on this,  
18 and I just want to make sure -- I'm just pulling it up.

19 MR. STERN: But, yes, your Honor, it is our intention  
20 that, whatever the monthly payment is, in installments, we  
21 would receive one-third of that.

22 THE COURT: Okay, yes. That's what I want to make  
23 sure.

24 MR. STERN: Yes.

25 THE COURT: It is that one-third figure?

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MR. STERN: Yes, your Honor.

THE COURT: Okay.

Finally, as pertains to the third Rule 23(e) factor, the parties have entered into a confidential agreement establishing conditions under which Stronghold may terminate the settlement if the settlement class members who collectively have claims equating to a certain dollar amount under the Plan of Allocation request exclusion from the settlement. "This type of agreement is standard in securities class action settlements and has no negative impact on the fairness of the Settlement." *Christine Asia Co., Ltd. v. Ma*, 2019 WL 5257534, at \*15 (S.D.N.Y. Oct. 16, 2019).

Moving to the fourth Rule 23(e) factor, I find that the proposal treats class members equitably relative to each other. All class members have the opportunity to submit claims. Claims will be distributed pro rata based on each claimant's recognized loss. Courts in this Circuit routinely approve pro rata allocation schemes. See, e.g., *Cymbalista v. JPMorgan Chase Bank, N.A.*, No. 20 CV 456 (RPK) (LB), 2021 WL 7906584, \*9 (E.D.N.Y. May 25, 2021) ("Distribution plans which distribute the settlement award based on each class member's pro rata share, have been found to be fair and rational.") (collecting cases).

The settlement agreement also provides that Lead Plaintiff will receive an incentive award in the amount of

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1 \$10,000. In the Second Circuit, there is "clear precedent that  
2 permits district courts to approve fair and appropriate  
3 incentive awards to class representatives." *Moses*, 79 F.4th at  
4 253. Incentive awards are common in class actions in this  
5 Circuit and are intended to "compensate the named plaintiffs  
6 for their willingness to serve the class, the service they  
7 rendered, risks they bore, and opportunities sacrificed to  
8 ensure a favorable class settlement." *Henry v. Little Mint,*  
9 *Inc.*, No. 12 Civ. 3996 (CM), 2014 WL 2199427, at \*10 (S.D.N.Y.  
10 May 23, 2014). Such payments are "usually within the range of  
11 \$1,000-\$20,000." *Moses*, 79 F.4th at 255 n.12.

12 Class counsel have represented that Lead Plaintiff  
13 "work[ed] closely with Lead Counsel throughout the pendency of  
14 the Action to secure the highest possible recovery for [it]self  
15 and the Settlement Class." Stern Decl. 92. Accordingly, I  
16 find that the requested award payment is reasonable and not  
17 excessive or otherwise inequitable.

18 Having concluded that all four Rule 23(e) factors are  
19 satisfied, I will now address the remaining *Grinnell* factors.  
20 "Not every factor must weigh in favor of the settlement."  
21 *Christine Asia Co. v. Yun Ma*, Nos. 15-mc-02631 et al. (CM),  
22 2019 WL 5257534, at \*9 (S.D.N.Y. Oct. 16, 2019). Rather, "the  
23 court should consider the totality of these factors in light of  
24 the particular circumstances." *Id.*

25 With respect to the second *Grinnell* factor, the class

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1 members' reactions to the settlement have been positive to  
2 date. The class administrator reported that settlement notice  
3 has reached nearly the entire settlement class. Evans Decl.  
4 3-4, ECF No. 132-1.

5 That's correct?

6 MR. STERN: Yes, your Honor.

7 THE COURT: No class members have opted out or  
8 provided the necessary information such that they could opt  
9 out?

10 MR. STERN: Yes, your Honor.

11 THE COURT: Okay.

12 And I think you said 10,000 class members have filed  
13 claims to date, correct?

14 MR. STERN: Yes, your Honor.

15 THE COURT: Okay. Approximately?

16 MR. STERN: Approximately.

17 THE COURT: "The fact that the vast majority of class  
18 members neither objected nor opted out is a strong indication  
19 of fairness." *Sow v. City of New York*, No. 21-cv-00533 (CM),  
20 2024 WL 964595, at \*2 (S.D.N.Y. Mar. 5, 2024); see also *Massiah*  
21 *v. MetroPlus Health Plan, Inc.*, No. 11-CV-05669 BMC, 2012 WL  
22 5874655, at \*4 (E.D.N.Y. Nov. 20, 2012) (collecting cases and  
23 authorities). Accordingly, here, the overwhelmingly favorable  
24 response demonstrates that the class approves of the settlement  
25 and supports final approval.

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1           With respect to the third *Grinnell* factor, the stage  
2 of the proceedings and amount of discovery completed, "the  
3 pertinent question is whether counsel had an adequate  
4 appreciation of the merits of the case before negotiating."  
5 *Torres v. Gristede's Operating Corp.*, No. 04-CV-3316 PAC, 2010  
6 WL 5507892, at \*5 (S.D.N.Y. Dec. 21, 2010), *aff'd*, 519 F. App'x  
7 1 (2d Cir. 2013). The parties engaged in formal discovery and  
8 motion practice, which enabled them to evaluate the relative  
9 strength of their claims and defenses. This factor weighs in  
10 favor of approval.

11           Turning to the seventh *Grinnell* factor, the parties  
12 have represented that Defendants may not be able to withstand a  
13 greater judgment, particularly in light of Stronghold's limited  
14 D&O insurance coverage. See Mot. at 18, ECF No. 128.  
15 Moreover, a defendant is not required to empty its coffers  
16 before a settlement can be found adequate." *Stinson v. City of*  
17 *New York*, 256 F. Supp. 3d 283, 294 (S.D.N.Y. 2017). This  
18 factor therefore weighs in favor of approval.

19           Finally, the eighth and ninth *Grinnell* factors require  
20 me to consider the amount of the settlement in light of the  
21 best possible recovery and the attendant risks of litigation.  
22 The determination of whether a settlement amount is reasonable  
23 "is not susceptible of a mathematical equation yielding a  
24 particularized sum." *City of Providence v. Aeropostale, Inc.*,  
25 No. 11-cv-07132 (CM), 2014 WL 1883494, at \*9 (S.D.N.Y. May 9,

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1 2014). Instead, "there is a range of reasonableness with  
2 respect to a settlement—a range which recognizes the  
3 uncertainties of law and fact in any particular case and the  
4 concomitant risks and costs necessarily inherent in taking any  
5 litigation to completion." *Newman v. Stein*, 464 F.2d 689, 693  
6 (2d Cir. 1972). "The fact that a proposed settlement may only  
7 amount to a fraction of the potential recovery does not, in and  
8 of itself, mean that the proposed settlement is grossly  
9 inadequate and should be disapproved." *Stinson v. City of New*  
10 *York*, 256 F. Supp. 3d 283, 294 (S.D.N.Y. 2017). This is  
11 because "settlement assures immediate payment . . . to class  
12 members, even if it means sacrificing speculative payment of a  
13 hypothetically larger amount years down the road," *Gilliam v.*  
14 *Addicts Rehab. Ctr. Fund*, No. 05 CIV. 3452 (RLE), 2008 WL  
15 782596, at \*5 (S.D.N.Y. Mar. 24, 2008), and "few cases tried  
16 before a jury result in a verdict awarding the full amount of  
17 damages claimed," *In re Indep. Energy Holdings PLC*, No. 00 Civ.  
18 6689 (SAS), 2003 WL 22244676, at \*4 (S.D.N.Y. Sept. 29, 2003).

19 Plaintiffs' damages expert estimated a maximum of \$97  
20 million recoverable in statutory damages, which would be  
21 reduced to \$54.3 million if Plaintiffs could recover only on  
22 statistically significant drops related to the misstatements.  
23 See Mot. at 12. The \$4.75 million cash portion of the  
24 settlement therefore amounts to between 4.9% and 8.75% of the  
25 best possible recovery. In securities fraud class actions,

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1 courts have generally approved settlement amounts ranging from  
2 3% to 7% of the class members' estimated losses. See *In re*  
3 *China Sunergy Sec. Litig.*, No. 07 CIV. 7895 DAB, 2011 WL  
4 1899715, at \*5 (S.D.N.Y. May 13, 2011). I therefore find the  
5 \$4.75 million cash portion of the settlement alone to be  
6 reasonable, before considering the Bitcoin-indexed portion.

7 When the Bitcoin-indexed portion of the settlement is  
8 included, at today's BTC price of approximately \$82,000, the  
9 settlement fund is worth approximately \$6,800,000. I therefore  
10 find the total settlement amount to be reasonable, given that  
11 it will be worth at least 4.9% of the best possible recovery  
12 (in the unlikely event Bitcoin becomes worthless), is today  
13 worth between 7% and 12.5% of the best possible recovery, and  
14 there is no upper limit to what it may be worth as paid.

15 Accordingly, I find that this factor weighs in favor  
16 of final approval.

17 I just want to confirm that everything I have said to  
18 date, in terms of the figures, is consistent with all of your  
19 understandings, correct?

20 MR. STERN: Yes, your Honor.

21 THE COURT: Okay. I just want to make sure that we're  
22 all on the same page.

23 For the reasons stated, I conclude that the settlement  
24 is both procedurally and substantively fair. In light of the  
25 "strong judicial policy in favor of [class action]

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1 settlements," *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396  
2 F.3d 96, 116-17 (2d Cir. 2005), the proposed Settlement is  
3 approved.

4 So that's my ruling. I'll sign a very brief order to  
5 this effect, but you should reach out to the court reporter to  
6 get a copy of the transcript of today.

7 Are there any other applications? Anything else  
8 anyone would like to place on the record?

9 MR. STERN: Nothing from plaintiffs, your Honor.

10 MR. THAU: Nothing from defendants, your Honor.

11 MR. KORN: Nothing.

12 THE COURT: Thank you, all, for your patience.

13 And have a good weekend.

14 MR. STERN: Thank you, your Honor.

15 (Adjourned)