

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re LEHMAN BROTHERS SECURITIES  
AND ERISA LITIGATION

Case No. 09-MD-2017 (LAK)

This Document Applies To:

ECF CASE

*In re Lehman Brothers Equity/Debt  
Securities Litigation*, 08-CV-5523 (LAK)

**STIPULATION OF SETTLEMENT AND RELEASE**

This Stipulation of Settlement and Release (the “Stipulation”) is submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure. Subject to the approval of the District Court, this Stipulation is entered into between and among the Court-appointed Class Representative Oklahoma Firefighters Pension and Retirement System (“Oklahoma”), the Court-appointed Lead Plaintiffs Alameda County Employees’ Retirement Association, Government of Guam Retirement Fund, Northern Ireland Local Government Officers’ Superannuation Committee, City of Edinburgh Council as Administering Authority of the Lothian Pension Fund, and Operating Engineers Local 3 Trust Fund (“Lead Plaintiffs”; collectively, with Oklahoma, “Plaintiffs”) on behalf of the Settlement Class (as defined below in ¶1(nn)), and Ernst & Young LLP (“EY”; collectively, with Plaintiffs, the “Settling Parties”), by and through their respective counsel in the above-captioned consolidated class action. Subject to the approval of the District Court and certain limitations expressly provided herein, this Settlement is intended to settle and release all claims against EY and the other Released Parties (as defined below in ¶1(ii)). This

Stipulation does not release any claims of Plaintiffs and the other Members of the Settlement Class against the Non-Settling Defendants (as defined below in ¶1(bb)).<sup>1</sup>

A. WHEREAS, beginning on June 18, 2008, class actions were filed in the District Court, alleging violations of the federal securities laws and captioned as follows: *Operative Plasterers & Cement Masons International Association Local 262 Annuity Fund, et al. v. Richard S. Fuld, Jr., et al.*, Case No. 08 Civ. 5523; *Fogel Capital Management, Inc. v. Richard S. Fuld, Jr., et al.*, Case No. 08 Civ. 8225; *Anthony Peyser v. Richard S. Fuld, Jr., et al.*, Case No. 08 Civ. 9404; *Stephen P. Gott v. UBS Financial Services, Inc., et al.*, Case No. 08 Civ. 9578; *Jeffrey Stark, et al. v. Erin Callan, et al.*, Case No. 08 Civ. 9793; *Stanley Tolin v. Richard S. Fuld, Jr., et al.*, Case No. 08 Civ. 10008; *Enrique Azpiazu v. UBS Financial Services, Inc., et al.*, Case No. 08 Civ. 10058; and *Brooks Family Partnership, LLC, et al. v. Richard S. Fuld, Jr., et al.*, Case No. 08 Civ. 10206. These actions were consolidated by the District Court's Order dated January 9, 2009 (the "Consolidation Order"), under the caption *In re Lehman Brothers Equity/Debt Securities Litigation*, Case No. 08 Civ. 5523 (LAK) (the "Action"). In addition, pursuant to the District Court's July 31, 2008 Order (ECF No. 18), the District Court appointed Alameda County Employees' Retirement Association, Government of Guam Retirement Fund, Northern Ireland Local Government Officers' Superannuation Committee, City of Edinburgh Council as Administering Authority of the Lothian Pension Fund, and Operating Engineers Local 3 Trust Fund as Lead Plaintiffs, and the law firms of Bernstein Litowitz Berger & Grossmann LLP ("Bernstein Litowitz") and Kessler Topaz Meltzer & Check, LLP (formerly Schiffrin Barroway Topaz & Kessler, LLP) ("Kessler Topaz") as Lead Counsel.

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<sup>1</sup> All terms with initial capitalization not otherwise defined shall have the meanings ascribed to them in ¶1 herein.

B. WHEREAS, on April 23, 2010, Lead Plaintiffs filed a Third Amended Class Action Complaint (the “Complaint”), asserting claims under Sections 11, 12 and/or 15 of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. §§ 77k, 77l, 77o, against EY and certain current and/or former Lehman officers and directors, certain underwriters of certain Lehman offerings, and claims under Sections 10, 20 and/or 20A of the Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78j, 78t(a), 78t(A), against EY and certain former Lehman officers.

C. WHEREAS, on September 8, 2011, after briefing and oral argument and input from the Parties at the Court’s request, the District Court entered Pretrial Order No. 19, which set forth the District Court’s rulings with respect to EY’s motion to dismiss the Complaint. In particular, the District Court granted EY’s motion to dismiss all claims asserted against it under the Securities Act, and granted EY’s motion to dismiss with respect to the claims brought against it under the Exchange Act for all purchases of Lehman common stock and options made prior to July 10, 2008 (the “Dismissed EY Claims”). The District Court denied EY’s motion to dismiss with respect to the claims brought against it under the Exchange Act for all purchases of Lehman common stock and options made after July 10, 2008 through and including September 15, 2008 (the “Sustained EY Claims”).

D. WHEREAS, on October 3, 2011, EY filed its Answer to the Complaint.

E. WHEREAS, on December 2, 2011, and December 12, 2011, Lead Plaintiffs filed stipulations of proposed settlements with certain Lehman directors and officers (the “D&O Settlement”) and certain underwriter Defendants (the “UW Settlements”). The District Court granted final approval of the UW Settlements on May 2, 2012, and of the D&O Settlement on May 24, 2012. In connection with the D&O Settlement and the UW Settlements, the District

Court certified for purposes of those settlements only, certain classes of plaintiff investors, referred to as the “D&O Class” and the “Underwriter Class.”

F. WHEREAS, on February 3, 2012, Lead Plaintiffs filed a motion to certify a class action for purposes of the continuing litigation against EY. Following briefing, on January 23, 2013, the District Court certified the Class, and appointed Oklahoma as the Class Representative with respect to the claims against EY. Additionally, the District Court appointed Bernstein Litowitz and Kessler Topaz as Co-Lead Counsel with respect to the claims against EY.

G. WHEREAS, Lead Counsel have conducted an investigation relating to the claims and the underlying events and transactions alleged in the Complaint. Lead Counsel have also researched the applicable law with respect to the claims of Plaintiffs and the other Settlement Class Members (as defined herein) against EY and the potential defenses thereto. In total, Plaintiffs’ Counsel took over 50 depositions and obtained and reviewed over 26 million pages of documents produced by EY, other Defendants and relevant third parties. Further, Plaintiffs, through Lead Counsel, have had several in-person and telephonic settlement discussions, mediations and arm’s-length negotiations with counsel for EY, with a view to achieving the best relief possible consistent with the interests of the Settlement Class.

H. WHEREAS, based upon their investigation, substantial discovery, and extensive negotiations, Lead Counsel have concluded that the terms and conditions of this Settlement and the documents incorporated herein by reference are fair, reasonable and adequate to Plaintiffs and the other Settlement Class Members and in their best interests, and have agreed to settle the claims raised in the Action as against EY pursuant to the terms and provisions of this Stipulation, after considering, among other things, the attendant risks of litigation and the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation.

I. WHEREAS, nothing in this Stipulation shall be construed or deemed to be evidence of an admission, concession or infirmity on the part of any Settling Party with respect to any claim, defense, fault, liability, wrongdoing or damages whatsoever.

J. WHEREAS, EY and Plaintiffs agree that each has complied fully with the strictures of Rule 11 of the Federal Rules of Civil Procedure.

**NOW THEREFORE**, without any admission or concession on the part of Plaintiffs of any lack of merit of the Action whatsoever, and without any admission or concession of any liability or wrongdoing or lack of merit in the defenses whatsoever by EY and the other released persons and entities, it is hereby **STIPULATED AND AGREED**, by and among the parties to this Stipulation, through their respective attorneys, subject to approval of the District Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the parties hereto from the Settlement, that all Settled Claims (as defined below) as against the Released Parties (as defined below) and all Released Parties' Claims (as defined below) shall be compromised, settled, released and dismissed with prejudice, upon and subject to the following terms and conditions:

#### **CERTAIN DEFINITIONS**

1. As used in this Stipulation, and in any exhibits attached hereto and made a part hereof, the following terms shall have the following meanings:

a. "Action" shall mean *In re Lehman Brothers Equity/Debt Securities Litigation*, Case No. 08 Civ. 5523 (LAK).

b. "Authorized Claimant" shall mean a Settlement Class Member who either: (i) previously submitted a valid Proof of Claim Form to the Claims Administrator in connection with the D&O Settlement or UW Settlements; or (ii) submits a timely and valid Proof of Claim Form to the Claims Administrator in connection with this Settlement, in accordance with the

requirements established by the District Court, and who is approved for payment from the Net Settlement Fund.

c. “Bankruptcy Court” shall mean the United States Bankruptcy Court for the Southern District of New York.

d. “Claim” shall mean a claim for payment from the Net Settlement Fund.

e. “Claim Form” or “Proof of Claim Form” shall mean the form substantially in the form attached hereto as Exhibit A-2, that a Claimant must complete (or have completed in connection with the D&O Settlement or UW Settlements) should that Claimant seek to be potentially eligible to share in a distribution of the Net Settlement Fund.

f. “Claimant” shall mean a person or entity that submits a Claim Form to the Claims Administrator seeking to be potentially eligible to share in the proceeds of the Net Settlement Fund.

g. “Claims Administrator” shall mean The Garden City Group, Inc., the firm retained by Lead Plaintiffs and Lead Counsel subject to approval of the District Court to provide all notices approved by the District Court to potential Settlement Class Members and to administer the Settlement and distribute the Net Settlement Fund.

h. “Class Distribution Order” shall mean the first order entered by the District Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to the Authorized Claimants.

i. “Complaint” shall mean the Third Amended Class Action Complaint for Violations of the Federal Securities Laws that was filed with the District Court on April 23, 2010.

j. “D&O Defendants” shall mean Richard S. Fuld, Jr., Christopher M. O’Meara, Joseph M. Gregory, Erin Callan, Ian Lowitt, Michael L. Ainslie, John F. Akers, Roger

S. Berlind, Thomas H. Cruikshank, Marsha Johnson Evans, Sir Christopher Gent, Roland A. Hernandez, Henry Kaufman and John D. Macomber.

k. “Defendants” shall mean EY and the Non-Settling Defendants.

l. “District Court” shall mean the United States District Court for the Southern District of New York.

m. “Effective Date” shall mean the date on which all of the following shall have occurred: (i) the District Court has entered the Notice Order; (ii) the District Court has approved the Settlement, following notice to the Settlement Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and (iii) the District Court has entered the Judgment, which has become Final.

n. “Escrow Account” shall mean an account controlled by Lead Counsel, acting as agents for Plaintiffs and the Settlement Class, wherein the Settlement Amount shall be deposited and held in escrow.

o. “Escrow Agent” shall mean The Huntington National Bank, which shall be responsible for overseeing, safeguarding and distributing the Escrow Account, acting as agent for the Settlement Class.

p. “EY” shall mean Ernst & Young LLP.

q. “Final,” when referring to an order or judgment, shall mean: (i) that the time for appeal or appellate review of such order or judgment has expired; or (ii) if there has been an appeal, that such order or judgment has been affirmed on appeal or that said appeal has been decided without causing a material change in the order or judgment, and such order or judgment is no longer subject to appellate review by further appeal or writ of certiorari.

r. “Judgment” shall mean the final judgment substantially in the form attached hereto as Exhibit B, to be entered by the District Court pursuant to Rule 54(b) of the Federal Rules of Civil Procedure approving the Settlement.

s. “LBHI” means Lehman Brothers Holdings Inc.

t. “LBI SIPA Proceeding” means the proceeding under the Securities Investor Protection Act that was commenced on September 19, 2008 against Lehman Brothers Inc. (“LBI”).

u. “Lead Counsel” shall mean the law firms of Bernstein Litowitz Berger & Grossmann LLP and Kessler Topaz Meltzer & Check, LLP.

v. “Lead Plaintiffs” shall mean the Alameda County Employees’ Retirement Association, Government of Guam Retirement Fund, Northern Ireland Local Government Officers’ Superannuation Committee, City of Edinburgh Council as Administering Authority of the Lothian Pension Fund, and Operating Engineers Local 3 Trust Fund.

w. “Lehman” shall mean LBHI and those of its subsidiaries and affiliates that, together with LBHI, are debtors in the LBHI bankruptcy proceedings (the “Lehman Bankruptcy Proceedings”).

x. “Lehman Securities” shall mean: (a) Lehman securities identified in Appendix A hereto, (b) Lehman Structured Notes identified in Appendix B hereto, and/or (c) Lehman common stock or call options purchased or acquired, or put options sold during the Settlement Class Period.

y. “Litigation Expenses” shall mean the costs and expenses incurred by Plaintiffs’ Counsel in connection with commencing and prosecuting the Action (which may include the costs and expenses of the Lead Plaintiffs and/or Class Representative directly related



to their representation of the Settlement Class), for which Lead Counsel intend to apply to the District Court for reimbursement from the Settlement Fund.

z. “Named Plaintiffs” shall mean Plaintiffs and the following additional plaintiffs: Brockton Contributory Retirement System; Inter-Local Pension Fund of the Graphic Communications Conference of the International Brotherhood of Teamsters; Police and Fire Retirement System of the City of Detroit; American European Insurance Company; Belmont Holdings Corp.; Marsha Kosseff; Stacey Oyler; Montgomery County Retirement Board; Fred Telling; Stuart Bregman; Irwin and Phyllis Ingwer; Carla LaGrassa; Teamsters Allied Benefit Funds; Francisco Perez; Island Medical Group PC Retirement Trust f/b/o Irwin Ingwer; Robert Feinerman; John Buzanowski; Steven Ratnow; Ann Lee; Sydney Ratnow; Michael Karfunkel; Mohan Ananda; Ronald Profili; Grace Wang; Stephen Gott; Juan Tolosa; Neel Duncan; Nick Fotinos; Arthur Simons; Richard Barrett; Shea-Edwards Limited Partnership; Miriam Wolf; Harry Pickle (trustee of Charles Brooks); Barbara Moskowitz; Rick Fleischman; Karim Kano; David Kotz; Ed Davis; and Joe Rottman.

aa. “Net Settlement Fund” shall mean the Settlement Fund less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded by the District Court; and (iv) any attorneys’ fees awarded by the District Court.

bb. “Non-Settling Defendants” shall mean the D&O Defendants, the Underwriter Defendants, and UBS Financial Services, Inc.

cc. “Notice” shall mean the Notice of Pendency of Class Action and Proposed Settlement with Defendant Ernst & Young LLP, Settlement Fairness Hearing and Motion for Attorneys’ Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit A-1, which is to be sent to potential Settlement Class Members.

dd. “Notice and Administration Costs” shall mean the costs, fees and expenses that are incurred by the Claims Administrator and Lead Counsel in connection with (i) providing notice to the Settlement Class, including obtaining security holder lists; (ii) administering the Claims process; and (iii) any expenses incurred in connection with the Escrow Account.

ee. “Notice Order” shall mean the order, substantially in the form attached hereto as Exhibit A, to be entered by the District Court certifying the Settlement Class for settlement purposes only, and directing that notice be provided to the Settlement Class.

ff. “Plaintiffs’ Counsel” shall mean Lead Counsel and all other legal counsel who, at the direction and under the supervision of Lead Counsel, represent any Plaintiffs in the Action.

gg. “Plan of Allocation” shall mean the plan of allocation of the Net Settlement Fund which will be proposed to the District Court by Plaintiffs.

hh. “Publication Notice” or “Summary Notice” shall mean the Summary Notice of Pendency of Class Action and Proposed Settlement, Settlement Fairness Hearing and Motion for Attorneys’ Fees and Reimbursement of Litigation Expenses, to be published substantially in the form attached hereto as Exhibit A-3.

ii. “Released Parties” shall mean EY, Ernst & Young Global Limited, each of the member firms of Ernst & Young Global Limited (together with EY and Ernst & Young Global Limited, the “EY Entities”) and any and all of the EY Entities’ past, present and future partners, directors, officers, employees, subsidiaries, affiliates, predecessors, successors, assigns, insurers, attorneys, stockholders and agents, in their respective capacities as such, provided however, that “Released Parties” does not include any of the Non-Settling Defendants, nor any of their respective parents, successors, subsidiaries, and affiliates and any entity in which any of

them have or had during the Settlement Class Period a controlling interest and the officers and directors thereof.

jj. “Released Parties’ Claims” shall mean any and all claims, rights, demands, liabilities and causes of action of every nature and description, to the fullest extent that the law permits their release in this Action, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against EY, except for claims relating to the enforcement of the Settlement.

kk. “Settled Claims” shall mean any and all claims, rights, remedies, demands, liabilities and causes of action of every nature and description (including but not limited to any claims for damages, punitive damages, compensation, restitution, disgorgement, rescission, interest, injunctive relief, attorneys’ fees, expert or consulting fees, obligations, debts, losses, and any other costs, expenses or liabilities of any kind or nature whatsoever), whether legal, statutory or equitable in nature to the fullest extent that the law permits their release in this Action, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, whether class or individual in nature, that Lead Plaintiffs, the Settlement Class Representative or any other Settlement Class Member: (a) alleged in any complaint filed in the Action, or (b) could have asserted in any forum or proceeding that arise out of or are based upon or are related to the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Complaint or in any other complaint filed in this Action and that arise out of the Settlement Class Member’s purchase, acquisition or holding of Lehman Securities during the Settlement Class Period. Notwithstanding the foregoing, the Settlement Class, through the release in the Settlement, will not release (i) the claims asserted in any ERISA action or mortgage-backed securities action, including such claims submitted against

any of the debtors in the Lehman Bankruptcy Proceedings or the LBI SIPA Proceeding; (ii) any claims or interests in the Lehman Bankruptcy Proceeding or the LBI SIPA Proceeding asserted by an individual Settlement Class Member based solely upon the ownership of any Lehman security which is entitled to a distribution under any conformed plan of reorganization in the Lehman Bankruptcy Proceeding because of such ownership; or (iii) claims relating to the enforcement of the Settlement.

ll. “Settlement” shall mean the settlement with EY provided for by this Stipulation.

mm. “Settlement Amount” shall mean ninety-nine million dollars (\$99,000,000.00) in cash, paid by or on behalf of EY.

nn. “Settlement Class” shall mean, solely for purposes of this Settlement, all investors who (a) purchased or otherwise acquired Lehman Securities identified in Appendix A hereto, (b) purchased or otherwise acquired Lehman Structured Notes identified in Appendix B hereto, and/or (c) purchased or otherwise acquired Lehman common stock or call options and/or sold Lehman put options, during the Settlement Class Period. Excluded from the Settlement Class are (i) the named defendants in the Complaint, (ii) Lehman, (iii) the executive officers and directors of each Defendant or Lehman, (iv) any entity in which any Defendant or Lehman have or had a controlling interest, (v) members of any Defendant’s immediate families, (vi) the plaintiffs named in the actions listed on Appendix C hereto (the “Individual Actions”) who do not request removal from the excluded list in accordance with Paragraph 34 below (the “Individual Action Plaintiffs”); (vii) any person or entity that has (a) litigated claims in any forum against EY arising out of the purchase of Lehman Securities during any portion of the Settlement Class Period and received a judgment, or (b) settled and released claims against EY arising out of the purchase of Lehman Securities during any portion of the Settlement Class

Period (as identified on a confidential exhibit that will be produced by EY on a confidential basis to the Claims Administrator, but shall not be provided to Lead Counsel or Lead Plaintiffs or to any other person or entity); and (viii) the legal representatives, heirs, successors or assigns of any such excluded party. Also excluded from the Settlement Class are any persons or entities who exclude themselves by filing a timely request for exclusion in accordance with the requirements set forth in the Notice.

oo. “Settlement Class Member” shall mean a person or entity that is a member of the Settlement Class and does not exclude himself, herself or itself by filing a timely request for exclusion in accordance with the requirements set forth in the Notice.

pp. “Settlement Class Period” shall mean the period between June 12, 2007 and September 15, 2008, through and inclusive.

qq. “Settlement Class Representatives” shall mean the Lead Plaintiffs and Oklahoma.

rr. “Settlement Fund” shall mean the Settlement Amount plus any income or interest earned thereon.

ss. “Settlement Hearing” shall mean the hearing set by the District Court under Rule 23(d)(1)(c) of the Federal Rules of Civil Procedure to consider final approval of the Settlement.

tt. “Settling Defendant” shall mean EY.

uu. “Settling Defendant’s Counsel” or “EY’s Counsel” shall mean the law firms indicated by the signature blocks below.

vv. “Settling Parties” shall mean, collectively, the Plaintiffs, on behalf of the Settlement Class, and EY.

ww. “Taxes” shall mean collectively: (i) any and all taxes, duties and similar charges (including any estimated taxes, withholdings, interest or penalties and interest thereon) arising in any jurisdiction with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes or tax detriments that may be imposed upon EY or EY’s Counsel with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund may be finally determined to not qualify as a Qualified Settlement Fund (within the meaning contemplated in paragraph 9 herein) for federal or state income tax purposes or any distribution of any portion of the Settlement Fund to Authorized Claimants and other persons or entities entitled thereto pursuant to this Stipulation and; (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants).

xx. “Underwriter Defendants” shall mean A.G. Edwards & Sons, Inc. (acquired by Wachovia Securities on October 1, 2007, which itself was acquired by Wells Fargo on December 31, 2008); ABN Amro Holding N.V. (acquired by RFS Holdings B.V.); ANZ Securities, Inc.; Banc of America Securities LLC; BBVA Securities Inc.; BNP Paribas S.A.; BNY Mellon Capital Markets, LLC; Cabrera Capital Markets, LLC; Caja de Ahorros y Monte de Piedad de Madrid; Calyon Securities (USA) Inc.; Charles Schwab & Co., Inc.; CIBC World Markets Corp.; Citigroup Global Markets Inc.; Commerzbank Capital Markets Corp.; Daiwa Capital Markets Europe Limited (f/k/a Daiwa Securities SMBC Europe Limited); DnB NOR Markets; DZ Financial Markets LLC; Edward D. Jones & Co., L.P.; Fidelity Capital Markets Services; Fortis Securities LLC; Harris Nesbitt Corp.; HSBC Securities (USA) Inc.; HVB Capital Markets, Inc.; Incapital LLC; ING Financial Markets LLC; Loop Capital Markets, LLC; M.R. Beal & Company; Mellon Financial Markets, LLC; Merrill Lynch, Pierce, Fenner & Smith Inc.; Mizuho Securities USA, Inc.; Morgan Stanley & Co. Inc.; Muriel Siebert & Co., Inc.;

nabCapital Securities, LLC; National Australia Bank Ltd.; Natixis Bleichroeder Inc.; Raymond James & Associates, Inc.; RBC Capital Markets Corporation (f/k/a RBC Dain Rauscher Inc.); RBS Greenwich Capital; Santander Investment Securities Inc.; Scotia Capital (USA) Inc.; SG Americas Securities LLC; Siebert Capital Markets; Société Générale Corporate and Investment Banking; Sovereign Securities Corporation, LLC; SunTrust Robinson Humphrey, Inc.; TD Securities (USA) LLC; UBS Investment Bank; UBS Securities LLC; Utendahl Capital Partners, L.P. (acquired by Williams Capital Group, L.P. on or about Jan. 10, 2010); Wachovia Capital Finance (acquired by Wells Fargo Securities, LLC on Dec. 31, 2008); Wachovia Securities (acquired by Wells Fargo Securities on Dec. 31, 2008); Wells Fargo Securities, LLC; and Williams Capital Group, L.P.

yy. “Unknown Claims” shall mean any and all Settled Claims which any Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of such claims, and any Released Parties’ Claims which EY or any other Released Party does not know or suspect to exist in his, her or its favor at the time of the release of such claims, which if known by him, her or it might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Settled Claims and Released Parties’ Claims, the parties stipulate and agree that upon the Effective Date, Plaintiffs and EY shall expressly waive, and each other Settlement Class Member and each other Released Party shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if

known by him or her must have materially affected his or her settlement with the debtor.

Plaintiffs and EY acknowledge, and each other Settlement Class Member and each other Released Party by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Settled Claims and Released Parties’ Claims was separately bargained for and was a key element of the Settlement.

### **CLASS CERTIFICATION**

2. Solely for the purpose of the Settlement, EY stipulates and agrees to: (a) certification of the Action as a class action, pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf of the Settlement Class; (b) appointment of the Lead Plaintiffs and Oklahoma as Settlement Class Representatives; and (c) appointment of Lead Counsel as Class Counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure. Plaintiffs and EY will move for entry of the Notice Order, which will certify the Action to proceed as a class action for settlement purposes only.

### **RELEASE OF CLAIMS**

3. The obligations incurred pursuant to this Stipulation shall be in full and final disposition of the Action as against EY only, and shall fully and finally release any and all of the Settlement Class Members’ Settled Claims as against all Released Parties and shall also release any and all Released Parties’ Claims as against Named Plaintiffs, and all of their respective counsel, and any other Settlement Class Member. Upon the Effective Date, the Action shall be dismissed as against EY with prejudice and without costs.

4. Pursuant to the Judgment, upon the Effective Date, each of the Named Plaintiffs and all other Settlement Class Members shall release and shall be deemed by operation of law to have irrevocably, absolutely and unconditionally, fully, finally and forever released, waived,



discharged and dismissed each and every Settled Claim against each and all of the Released Parties with prejudice, and shall forever be enjoined from prosecuting any or all Settled Claims against any Released Party.

5. Pursuant to the Judgment, upon the Effective Date, EY, on behalf of itself and the other Released Parties, release and shall be deemed by operation of law to have released, waived, discharged and dismissed each and every Released Parties' Claims against each and all of the Named Plaintiffs, and their respective counsel, and any other Settlement Class Member.

#### **THE SETTLEMENT CONSIDERATION**

6. In consideration of the Settlement of claims asserted in this Action, and subject to the terms and conditions of this Stipulation, EY shall cause to be paid the Settlement Amount into the Escrow Account within ten (10) business days of the District Court's granting of a motion for entry of an order authorizing dissemination of notice of the proposed Settlement to the Settlement Class.

#### **USE OF SETTLEMENT FUND**

7. The Settlement Fund shall be used to pay: (a) Taxes; (b) Notice and Administration Costs; (c) any Litigation Expenses awarded by the District Court; and (d) any attorneys' fees awarded to Plaintiffs' Counsel by the District Court. The balance remaining in the Settlement Fund (the Net Settlement Fund) shall be distributed to Authorized Claimants as provided below.

8. Except as provided herein or pursuant to orders of the District Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the Escrow Agent shall be deemed to be in the custody of the District Court and shall remain subject to the jurisdiction of the District Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the District Court. The

Escrow Agent shall invest the Settlement Fund exclusively in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a United States Treasury Money Market Fund or a bank account fully insured by the United States Government Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC limit. All risks related to the investment of the Settlement Fund shall be borne by the Settlement Fund.

9. The parties hereto agree that the Settlement Fund is intended to be a separate Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1 and that Lead Counsel shall act as the administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-2(k)(3), and shall be responsible for filing or causing to be filed all informational and other tax returns for the Settlement Fund and paying from the Settlement Fund any Taxes owed thereon. EY’s Counsel will cause to be provided promptly to Lead Counsel the statement described in Treasury Regulation Section 1.468B-3(e). Lead Counsel, as administrator of the Settlement Fund within the meaning of Treasury Regulation Section 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation Section 1.468-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

10. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid by the Escrow Agent pursuant to the disbursement instructions to be set forth in the Escrow Agreement, and without prior Order of the District Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes (including any interest or penalties) on the income earned by

the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Settlement Fund shall hold all Released Parties harmless for any Taxes and related expenses of any kind whatsoever, if any, payable by EY by reason of any income earned on the Settlement Fund. EY's Counsel shall notify the Escrow Agent promptly if EY receives any notice of any claim for Taxes relating to the Settlement Fund.

11. This is not a claims-made settlement. Upon the occurrence of the Effective Date, neither EY nor any Released Party, nor any person or entity who or which paid any portion of the Settlement Fund on their behalf shall have any right to the return of the Settlement Fund or any portion thereof irrespective of the number of Claims filed, the collective amount of losses of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Net Settlement Fund.

12. The Claims Administrator shall discharge its duties under Lead Counsel's supervision and subject to the jurisdiction of the District Court. Except as otherwise provided herein, EY shall have no responsibility for the administration of the Settlement and shall have no liability to any person or entity, including, but not limited to, the Settlement Class Members, in connection with such administration. Lead Counsel shall cause the Claims Administrator to mail the Notice and Proof of Claim Form to those members of the Settlement Class at the address of each such person or entity as set forth in the records of the Claims Administrator obtained in connection with the D&O Settlement or UW Settlements, or who otherwise may be identified through further reasonable effort. Lead Counsel will cause to be published the Publication Notice pursuant to the terms of the Notice Order or whatever other form or manner might be ordered by the District Court.

13. Notwithstanding the fact that the Effective Date has not yet occurred, Lead Counsel may pay from the Settlement Fund, without further approval from EY or further order of

the District Court, all reasonable Notice and Administration Costs actually incurred. Such costs and expenses shall include, without limitation, the actual costs of printing and mailing the Notice and Proof of Claim Form, reimbursements to nominee owners for forwarding the Notice to their beneficial owners, publication of the Summary Notice, the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing Notice and processing the submitted Claims, and the fees, if any, of the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all Notice and Administration Costs reasonably paid or reasonably incurred, including any related fees, shall not be returned or repaid to EY or any other Released Party, or to any person or entity who or which paid any portion of the Settlement Amount on their behalf.

14. The Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the maintenance, investment or distribution of the Settlement Fund, the establishment or maintenance of the Escrow Account, the establishment or administration of the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes, the distribution of the Net Settlement Fund, the administration of the Settlement, or any losses incurred in connection with such matters. EY takes no position with respect to the provisions of this Stipulation governing those issues. The Released Parties shall have no further or other liability or obligations to Lead Plaintiffs, Lead Counsel or any member of the Settlement Class with respect to the Settled Claims, except as expressly stated in this Stipulation.

#### **ATTORNEYS' FEES AND LITIGATION EXPENSES**

15. Lead Counsel will apply to the District Court for a collective award of attorneys' fees to Plaintiffs' Counsel from the Settlement Fund. Lead Counsel will also apply to the District

Court for reimbursement of Litigation Expenses, which may include a request for reimbursement of Plaintiffs' expenses in accordance with 15 U.S.C. § 78u-4(a)(4).

16. Any attorneys' fees and Litigation Expenses that are awarded by the District Court shall be paid from the Escrow Account to Lead Counsel, on behalf of Plaintiffs' Counsel, immediately upon the entry of the District Court's order approving such attorneys' fees and Litigation Expenses, or at such later date as required by the Court, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. Lead Counsel agree to make appropriate refunds or repayments to the Settlement Fund, plus any interest, if any, actually accrued on such funds, if the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or Litigation Expenses is reduced or reversed. Lead Counsel shall make the appropriate refund or repayment in full no later than fifteen (15) business days after receiving from EY's Counsel or from a court of appropriate jurisdiction notice of any such reduction of the award of attorneys' fees and/or Litigation Expenses, or notice of the termination of the Settlement. An award of attorneys' fees and/or Litigation Expenses is not a necessary term to this Stipulation or a condition of this Stipulation, the Settlement or the releases provided herein. Plaintiffs and Lead Counsel may not cancel or terminate the Stipulation or the Settlement based on the District Court's or any appellate court's ruling with respect to attorneys' fees and/or Litigation Expenses. Any appeal relating to an award of attorneys' fees or Litigation Expenses will not affect the finality of the Settlement, the Judgment or the releases provided herein.

#### **CLAIMS ADMINISTRATOR**

17. The Claims Administrator shall administer the process of receiving, reviewing and approving or denying Claims under Lead Counsel's supervision and subject to the

jurisdiction of the District Court. Neither EY nor any other Released Party shall have any responsibility whatsoever to any person or entity, including, but not limited to, Plaintiffs, Settlement Class Members or Lead Counsel in connection with such administration. EY's Counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms.

18. The Claims Administrator shall receive Claims and determine first, whether the Claim is a valid Claim, in whole or in part; and second, each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's loss amount (as set forth in the Plan of Allocation to be submitted by Lead Counsel to the District Court for approval, or in such other plan of allocation as the District Court approves).

19. A particular plan of allocation to be proposed by Lead Counsel is not a necessary term of this Stipulation, and it is not a condition of this Stipulation, the Settlement, or the releases provided herein that any particular plan of allocation be approved by the District Court. Plaintiffs and Lead Counsel may not cancel or terminate the Stipulation or the Settlement based on the District Court's or any appellate court's ruling with respect to any particular plan of allocation in this Action. Neither EY nor any other Released Party (or their respective counsel) shall have any responsibility or liability whatsoever for allocation of the Net Settlement Fund. Any appeal relating to the allocation of the Net Settlement Fund, the administration of the Settlement or the claims process will not affect the finality of the Settlement, the Judgment, or the releases provided herein.

20. Valid Claim Forms submitted by or on behalf of Settlement Class Members in connection with the D&O Settlement or UW Settlements will be considered as resubmitted in connection with the Settlement; Settlement Class Members need not resubmit Claim Forms in connection with this Settlement. However, an additional opportunity for submitting Claim

Forms in connection with this Settlement will be allowed as set forth in the Notice Order. Any Settlement Class Member who does not timely (or did not in connection with the D&O Settlement or UW Settlements) submit a valid Claim Form will not be entitled to receive any distribution from the Net Settlement Fund but will otherwise be bound by all of the terms of this Stipulation and Settlement, including the terms of the Judgment to be entered in the Action and the releases provided for herein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any and all Released Parties concerning any and all of the Settled Claims, unless that Settlement Class Member excludes himself, herself or itself in accordance with the provisions set forth in the Notice.

21. Lead Counsel shall be responsible for supervising the administration of the Settlement and disbursement of the Net Settlement Fund. Neither EY nor any other Released Party (or their respective counsel), shall have any liability, obligation or responsibility whatsoever for the administration of the Settlement or disbursement of the Net Settlement Fund. Neither EY nor any other Released Party, shall be permitted to review, contest or object to any Claim Form or any decision of the Claims Administrator or Lead Counsel with respect to accepting or rejecting any Claim Form or Claim for payment by a Settlement Class Member. Lead Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claim Forms submitted in the interests of achieving substantial justice.

22. For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

a. Unless a valid Claim Form was submitted in connection with the D&O Settlement or UW Settlements, each Settlement Class Member shall be required to submit a

Claim Form supported by such documents as are designated therein, including proof of the transactions and holdings claimed and the claimed incurred losses, or such other documents or proof as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable.

b. All Claim Forms must be submitted by the date that will be set by the District Court, unless such deadline is extended by Order of the District Court. Any Settlement Class Member who fails to submit a Claim Form by such date shall be forever barred from receiving any distribution from the Net Settlement Fund or payment pursuant to this Stipulation (unless, by Order of the District Court, late-filed Claim Forms are accepted), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement including the terms of the Judgment and the releases provided for herein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any and all Released Parties concerning any and all of the Settled Claims, unless that Settlement Class Member excludes himself, herself or itself in accordance with the provisions set forth in the Notice. Provided that it is received before the motion for the Class Distribution Order is filed, a Claim Form shall be deemed to be submitted when posted, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

c. Each Claim Form shall be submitted to and reviewed by the Claims Administrator, under the supervision of Lead Counsel, who shall determine in accordance with this Stipulation and the court-approved plan of allocation the extent, if any, to which each Claim shall be allowed, subject to review by the District Court pursuant to subparagraph (e) below.

d. Claim Forms that do not meet the submission requirements may be rejected. Prior to rejecting a Claim in whole or in part, the Claims Administrator shall attempt to



communicate with the Claimant in writing, to give the Claimant the chance to remedy any curable deficiencies in the Claim Form submitted. The Claims Administrator, under the supervision of Lead Counsel, shall attempt to notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefore, and shall indicate in such notice that the Claimant whose claim is to be rejected has the right to a review by the District Court if the Claimant so desires and complies with the requirements of subparagraph (e) below.

e. If any Claimant whose claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the District Court. If a dispute concerning a Claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the District Court.

f. The administrative determinations of the Claims Administrator accepting and rejecting Claims shall be presented to the District Court for approval by the District Court in the Class Distribution Order.

23. Each Claimant shall be deemed to have submitted to the jurisdiction of the District Court with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or this Settlement in connection with the processing of Claim Forms.

24. Lead Counsel will apply to the District Court for a Class Distribution Order, *inter alia*: (a) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted; and (b) if the Effective Date has occurred, directing payment of the Net Settlement Fund to the Authorized Claimants from the Escrow Account. Payment and/or distribution of any of the Settlement Amount to Settlement Class Members shall be made only after the Effective Date.

25. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Settlement Class Members. All Settlement Class Members whose Claims are not approved by the District Court shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment to be entered in the Action and the releases provided for therein and herein and will be permanently barred and enjoined from bringing any Settled Claim against any and all Released Parties.

26. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the District Court.

#### **REQUESTS FOR EXCLUSION**

27. Persons who otherwise would be members of the Settlement Class but desire to be excluded from this Settlement shall be required to provide a written statement that the person or entity wishes to be excluded from the Settlement Class for receipt by the Claims Administrator on or before 21 days prior to the Settlement Hearing. Unless otherwise ordered by the District Court, any person or entity who purchased Lehman Securities who does not submit a timely request for exclusion as provided by this section shall be bound by this Stipulation.

28. The Claims Administrator shall scan and send electronically copies of all requests for exclusion to Lead Counsel expeditiously after the Claims Administrator receives such a request. As part of the reply papers in support of the Settlement, Lead Counsel will cause to be provided to the Court an updated Judgment which includes a list of all persons and entities who have requested exclusion from the Settlement Class.

#### **TERMS OF THE JUDGMENT**

29. Lead Counsel and EY's Counsel shall request that the District Court enter a Judgment, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, substantially in the form annexed hereto as Exhibit B.

#### **WAIVER OR TERMINATION**

30. EY and Plaintiffs shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so to all other parties to this Stipulation within thirty (30) days of: (a) the District Court's declining to enter the Notice Order in any material respect without leave to amend and resubmit; (b) the District Court's refusal to approve this Stipulation and Settlement or any material part of it without leave to amend and resubmit; (c) the District Court's declining to enter the Judgment in any material respect without leave to amend and resubmit; or (d) the date upon which the Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court. In addition, Plaintiffs shall also have the right to terminate the Settlement in the event that EY does not cause to be paid the Settlement Amount as provided in paragraph 6 above. Any decision with respect to an application for attorneys' fees or Litigation Expenses, or with respect to any plan of allocation, shall not be considered material to this Stipulation and Settlement and shall not be grounds for termination.

31. Except as otherwise provided herein, in the event the Settlement is terminated or fails to become effective for any reason, the Settlement termination shall be without prejudice, and none of the terms shall be effective or enforceable and the facts of the Settlement shall not be admissible for any purpose, and the parties to this Stipulation shall be deemed to have reverted *nunc pro tunc* to their respective status in the Action as of October 11, 2013, and, except as otherwise expressly provided, the parties shall proceed in all respects as if this Stipulation and any related orders had not been entered, and the Settlement consideration previously paid by or on behalf of EY, including any funds disbursed in payment of Litigation Expenses and attorneys' fees, together with any interest earned or appreciation thereon, less any Taxes paid or due with respect to such income, and less Notice and Administration Costs actually and reasonably incurred and paid or payable consistent with the provisions of paragraph 13 above, shall be returned to EY within ten (10) business days after immediate written notification of such event by EY and Lead Counsel to the Escrow Agent.

**NO ADMISSION OF WRONGDOING**

32. This Stipulation, whether or not consummated, and any proceedings taken pursuant to it:

a. shall not be offered or received against any of the Released Parties as evidence of, or construed as or deemed to be evidence of, any presumption, concession or admission by any of the Released Parties with respect to the truth of any fact alleged by Named Plaintiffs or the validity of any claim that was or could have been asserted against any of the Released Parties in this Action or in any litigation, or of any liability, negligence, fault or wrongdoing of any of the Released Parties;

b. shall not be offered or received against any of the Released Parties as evidence of a presumption, concession or admission of any fault, misrepresentation or omission

with respect to any statement or written document approved or made by any of the Released Parties, or against any of the Named Plaintiffs or any other Settlement Class Members as evidence of any infirmity in the claims of the Named Plaintiffs or the other Settlement Class Members;

c. shall not be offered or received against any of the Released Parties or against any of the Named Plaintiffs or any other Settlement Class Members as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Released Parties, or against any of the Named Plaintiffs or any other Settlement Class Members, in any other civil, criminal or administrative action, arbitration or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved by the District Court, EY, Named Plaintiffs and any other Settlement Class Member may file or refer to this Stipulation to effectuate the protection from liability granted them hereunder and/or by the Judgment in any action for any purpose, including, but not limited to, in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release and discharge, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim, or otherwise to enforce the terms of the Settlement;

d. shall not be construed against any Released Parties, any Named Plaintiff or any other Settlement Class Member as an admission, concession or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial;

e. shall not be construed as or received in evidence as an admission, concession or presumption against any Named Plaintiff or any other Settlement Class Member

that any of their claims are without merit or that damages recoverable under the Complaint would not have exceeded the Settlement Amount; and

f. shall not be construed as or received in evidence as an admission, concession or presumption against EY that any of its defenses are without merit or that any damages would have been recoverable under the Complaint.

### **MISCELLANEOUS PROVISIONS**

33. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

34. Despite being excluded from the Settlement Class, the Individual Action Plaintiffs may remove themselves from the excluded list and participate in the Settlement by requesting such removal in writing, agreeing to forego their particular Individual Action and agreeing not to object to any aspect of the Settlement, including the terms of the Settlement, the Plan of Allocation or the requested attorney's fees and reimbursement of expenses. Such written request must be received by Lead Counsel and EY's Counsel no later than twenty-one (21) days prior to the Settlement Hearing.

35. In the event of the entry of a Final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of any of the Released Parties to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited to the Settlement Fund by others, then, at the election of Plaintiffs, the parties shall jointly move the District Court to vacate and set aside the releases given and the Judgment entered in favor of EY and the other Released Parties pursuant to this Stipulation, which releases and Judgment shall be null and void, and the parties shall be restored to their respective positions in the litigation immediately prior to October 11, 2013, and any cash amounts in the Settlement

Fund, as well as any attorneys' fees or Litigation Expenses paid to Plaintiffs' Counsel, shall be returned as provided in paragraph 30 above, provided, however, that the provisions in this paragraph requiring return of funds shall expire and terminate upon the initial distribution from the Net Settlement Fund to Settlement Class Members pursuant to a Class Distribution Order.

36. The parties to this Stipulation intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by the Named Plaintiffs or any other Settlement Class Members against the Released Parties with respect to all Settled Claims. Accordingly, Plaintiffs and EY agree not to assert in any forum that this Action was brought by Plaintiffs, or any other plaintiff in the actions consolidated in the Action, or defended by EY in bad faith or without a reasonable basis. The parties hereto shall assert no claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense or settlement of this Action. The parties to this Stipulation agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

37. While retaining the right to deny that the claims asserted in this Action were meritorious, EY in any statement made to any media representative (whether or not for attribution) will not deny that the Action was commenced and prosecuted in good faith and is being settled voluntarily after consultation with competent legal counsel. In all events, Plaintiffs and EY shall refrain from any accusations of wrongful or actionable conduct by either party concerning the prosecution and resolution of this Action, and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged.

38. This Stipulation may not be modified or amended, nor may any of its provisions be waived, except in writing signed by all signatories hereto or their successors-in-interest.

39. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

40. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the District Court, and the District Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to Lead Counsel and enforcing the terms of this Stipulation.

41. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

42. This Stipulation and its exhibits constitute the entire agreement among the parties hereto concerning this Settlement, and no representations, warranties or inducements have been made by any party hereto concerning this Stipulation and its exhibits other than those contained and memorialized in such documents.

43. This Stipulation may be executed in one or more original, e-mail and/or faxed counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

44. This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

45. The construction, interpretation, operation, effect and validity of this Stipulation, and all documents necessary to effectuate it, shall be governed by the internal laws of the State of New York without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

46. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of arm's-length negotiations



between the parties, and all parties have contributed substantially and materially to the preparation of this Stipulation.

47. All counsel and any other persons executing this Stipulation and any of the exhibits hereto, or any related Settlement documents, warrant and represent that they have full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to this Stipulation to effectuate its terms.

48. Lead Counsel and EY's Counsel agree to cooperate fully with one another in seeking District Court approval of the Notice Order, this Stipulation and the Settlement, and final approval by the District Court of the Settlement.

49. If any party is required to give notice to the other parties under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery, e-mail, or facsimile transmission with confirmation of receipt. Notice shall be provided to counsel as indicated on the signature block below.

DATED AS OF November 20, 2013

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

David R. Stickney <sup>WP</sup> <sup>7/12/13</sup>

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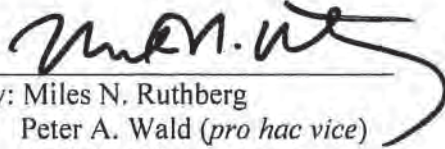
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