

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE TREMONT SECURITIES LAW, STATE LAW AND INSURANCE LITIGATION	:	MASTER FILE NO.:
	:	08 CIV. 11117 (TPG)
	:	
This Document Relates To:	:	
	:	
All Actions	:	
	:	
	:	
	:	

STIPULATION OF PARTIAL SETTLEMENT

This Stipulation of Partial Settlement is dated as of February 23, 2011 (the “Stipulation”) and submitted pursuant to Rules 23(e) and 23.1(e) of the Federal Rules of Civil Procedure. Subject to the approval of the Court, it is made and entered into by and among the following Settling Parties (throughout this Stipulation all capitalized terms used, but not immediately defined, are as defined in Section IV): (i) the Settling Plaintiffs (on behalf of themselves, the Settlement Class members and/or the Settling Funds), by and through their counsel of record in the Actions; and (ii) the Settling Defendants by and through their counsel. This Stipulation is intended by the Settling Parties to fully, finally and forever resolve, discharge and settle the Released Claims, including individual, derivative and class claims, upon and subject to the terms and conditions hereof (the “Settlement”). This Settlement does not settle or release any claims against the Non-Settling Defendants. In addition, the Settlement does not settle or release any claims belonging to Argus International that were not assigned to the Insurance Subclass and the Individual Settling Insurance Plaintiffs in connection with their partial settlement of the Insurance Actions.

I. THE LITIGATION

On December 22, 2008, *Lange, et al. v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11117 (TPG), the first of many actions against all or some of the Settling Defendants and others, was filed in the United States District Court for the Southern District of New York. Each of the Settling Defendants has been named as a defendant in some or all of the Actions.

On March 26, 2009, the Court entered a consolidation order (the “Consolidation Order”) that: (i) created three separate groups of consolidated actions; (ii) consolidated specified cases within each group; and (iii) assigned a master caption and docket number for the three groups: *In re Tremont Securities, State and Insurance Litigation*, Master File No.: 08 Civ. 11117 (TPG).

The three groups were assigned the following captions: (i) Securities Actions, 08 Civ. 11212 (TPG); (ii) State Law Actions, 08 Civ. 11183 (TPG); and (iii) Insurance Actions, 09 Civ. 557 (TPG).

In the Consolidation Order, the Court: (i) appointed Arthur M. Brainson (on behalf of the Arthur M. Brainson IRA R/O), Yvette Finkelstein and Group Defined Pension Plan & Trust as the Lead Plaintiffs in the Securities Actions and appointed Bernstein Liebhard LLP as lead counsel for the class in the Securities Actions; (ii) appointed Entwistle & Cappucci LLP and Hagens Berman Sobol & Shapiro LLP as interim co-lead counsel for the class in the State Law Actions; and (iii) appointed Wolf Haldenstein Adler Freeman & Herz LLP and Robbins Geller Rudman & Dowd LLP (formerly, Coughlin Stoia Geller Rudman & Robbins LLP) as interim co-lead counsel for the class in the Insurance Actions.

Pursuant to the Consolidation Order, on April 20, 2009, Plaintiffs' Settlement Class Counsel filed separate consolidated and amended complaints in their respective actions (the "Complaints").

On May 20, 2009, certain of the Defendants filed separate motions to dismiss the consolidated and amended complaints in the Securities Actions and State Law Actions. Those Defendants moved to dismiss the State Law Actions and the Securities Actions on the grounds that the Complaints failed to state a claim upon which relief could be granted because, *inter alia*, the State Law and Securities Plaintiffs failed to allege facts that would sustain a claim that the Defendants engaged in any wrongdoing. On July 14, 2009, the plaintiffs in the State Law Actions and the Securities Actions filed oppositions to the Defendants' motions to dismiss. On August 14, 2009, Defendants filed reply briefs in further support of their motions to dismiss. As of the date of the Settling Parties' agreement in principle to settle the Actions, the Settling

Defendants' dismissal motions had not been decided. The Court subsequently denied the Settling Defendants' motions to dismiss as moot.

The Settling Defendants did not move to dismiss the Insurance Actions because they were stayed prior to the deadline for filing motions to dismiss. On May 18, 2009, the Court stayed Argus' May 20, 2009 deadline, as well as any and all further proceedings in the Insurance Actions, pending completion of the settlement in principle between plaintiffs in the Insurance Actions, the Individual Settling Insurance Plaintiffs and Argus. On May 20, 2009, the Court stayed the deadline for certain Settling Defendants to respond to amended complaints that plaintiffs in certain of the Insurance Actions intended to file upon finalizing the contemplated settlement. On July 21, 2009, plaintiffs in the Insurance Actions, the Individual Settling Insurance Plaintiffs and Argus entered into a partial settlement agreement, which was preliminarily approved by the Court on October 14, 2009, and which received final approval from the Court on December 23, 2009.

On June 11, 2009, the Judicial Panel on Multidistrict Litigation transferred to the Court for consolidated or coordinated pre-trial proceedings two related actions originally filed in the United States District Court for the District of Massachusetts captioned, *Haines v. Mass. Mut. Life Ins. Co., et al.*, Civil Action No. 09-10182-RWZ (the "*Haines Action*"), and *Kretschmar Revocable Trust v. Rye Select Broad Market Fund, L.P.*, Civil Action No. 09-10182-DPW (the "*Kretschmar Action*").

On August 9, 2009, an action designated as related to the Insurance Actions, captioned *Lugano Trust v. Tremont Capital Mgmt., Inc., et al.*, Civil Action No. 09-6840 (TPG) (the "*Lugano Action*"), was filed in this Court by the Individual Settling Insurance Plaintiffs.

On September 25, 2009, following a hearing and bench ruling, the Court issued an order consolidating: (i) the *Haines* Action with the Securities Actions; (ii) the *Kretschmar* Action with the State Law Actions; and (iii) the *Lugano* Action with the Insurance Actions.

Plaintiffs' Settlement Counsel have conducted an investigation relating to the claims and the underlying events and transactions alleged in the Actions. Counsel have analyzed the evidence adduced during pretrial investigations and have researched the applicable law with respect to the claims against the Settling Defendants and potential defenses thereto.

During the pendency of Defendants' motions to dismiss, Plaintiffs' Settlement Counsel engaged in informal settlement discussions with the Settling Defendants. During these discussions, the Settling Defendants voluntarily provided information and documents to Plaintiffs' Settlement Counsel.

In March, 2010, with the assistance of the Honorable Layn R. Philips (retired) acting as a mediator, the Settling Plaintiffs engaged in arm's-length negotiations with the Settling Defendants with a view to settling the issues in dispute and achieving the best relief possible consistent with the interests of the Settlement Class. Formal mediation sessions were held on March 17-18, 2010. They were attended by Plaintiffs' Settlement Counsel, certain other Plaintiffs' counsel, representatives and counsel for the Settling Defendants and representatives and counsel for the Settling Defendants' insurance carriers and fidelity bond issuers.

Preliminary terms of a settlement were negotiated on March 18, 2010, subject to, among other things, approvals of the boards of directors of certain Settling Defendants and the Settling Plaintiffs and confirmatory discovery to be provided by the Settling Defendants. On March 22, 2010, the Settling Plaintiffs made a formal demand on the Settling Defendants that they accept the preliminary settlement terms negotiated on March 18, 2010. The Settling Defendants have

produced to the Settling Plaintiffs all of the documents they previously produced to one or more regulatory agencies and governmental bodies in connection with their investigation of the Settling Defendants' transactions and arrangements with Madoff. The Settling Defendants collectively have provided 12 witnesses for interviews and produced over 2 million pages of documents.

On August 13, 2010, with the assistance of the Honorable Layn R. Philips (retired) acting as a mediator and the Honorable Thomas R. Brett (retired) acting as an arbitrator, the State Law and Securities Plaintiffs resolved their differences with the Insurance Class Plaintiffs and the Individual Settling Insurance Plaintiffs concerning how the amounts received in the Settlement should be allocated among the three groups of actions, as is reflected hereafter.

II. THE SETTling DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

The Settling Defendants have denied and continue to deny each and all of the claims and allegations of wrongdoing made by the Settling Plaintiffs in the Actions and each maintains that it has meritorious defenses. The Settling Defendants expressly deny and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Actions, and the Settling Defendants vigorously contend that many of the factual allegations made in the Actions relating to the Settling Defendants were materially inaccurate. The Settling Defendants also deny and continue to deny, *inter alia*, the allegations that the Settling Plaintiffs, the Settling Funds, or the Settlement Class Members were harmed by the Settling Defendants' conduct alleged in the Actions. Pursuant to the terms of this Stipulation as set forth below, this Stipulation shall in no event be construed as, or deemed to be evidence of, an admission or concession by the Settling

Defendants with respect to any allegation or claim of any fault or liability or wrongdoing or injury whatsoever.

Nonetheless, the Settling Defendants have concluded that further conduct of the Actions would be protracted and expensive, and that it is desirable to fully and finally settle the Actions in the manner and upon the terms and conditions set forth in this Stipulation. The Settling Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as the Actions.

III. CLAIMS OF THE SETTLING CLASS PLAINTIFFS AND BENEFITS OF SETTLEMENT

The Settling Class Plaintiffs and Plaintiffs' Settlement Class Counsel believe that the claims asserted in the Actions have merit. However, Plaintiffs' Settlement Class Counsel recognize and acknowledge the expense, length and difficulty of continued proceedings necessary to prosecute the Actions against the Settling Defendants through appeals and/or potential further trial court proceedings. Plaintiffs' Settlement Class Counsel also have taken into account the possibility of the Court's dismissal of certain of the claims against the Settling Defendants, as well as the risk of any litigation, especially complex cases such as the Actions, as well as the difficulties and delays inherent in such litigation. Plaintiffs' Settlement Class Counsel also are mindful of the inherent problems of proof under, and possible defenses to, the violations asserted in the Actions. Plaintiffs' Settlement Class Counsel believe that the settlement set forth in this Stipulation confers substantial benefits upon the Settlement Class Members and the Settling Funds. Based on their evaluation, Plaintiffs' Settlement Class Counsel have determined that the settlement set forth in this Stipulation is in the best interests of the Settling Class Plaintiffs, the Settlement Class Members and the Settling Funds.

IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Settling Plaintiffs (on behalf of themselves and with respect to the Settling Class Plaintiffs on behalf of their respective Settlement Class Members and on behalf of the Settling Funds) and the Settling Defendants, by and through their respective counsel or attorneys of record, that, subject to the approval of the Court, the Actions and the Released Claims as against the Settling Defendants shall be finally and fully compromised, settled and released, and the Actions shall be dismissed with prejudice, as to the Settling Defendants, upon and subject to the terms and conditions of this Stipulation, as follows.

1. Definitions

As used in this Stipulation the following terms have the meanings specified below. In the event of any inconsistency between any definition set forth below and any definition set forth in any other document related to the Settlement set forth in this Stipulation, the definition set forth below shall control.

1.1 “Actions” means the *Tremont Securities, State and Insurance Litigation*, Civil Actions Master File No.: 08 Civ. 11117 (TPG), including the *State Law Actions*, 08 Civ. 11183 (TPG), *Securities Actions*, 08 Civ. 11212 (TPG), and the *Insurance Actions*, 09 Civ. 557 (TPG).

(a) The State Law Actions include: (i) *Lange, et al. v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11117 (master docket); (ii) *Peshkin v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11183 (lead); (iii) *Keane v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 1396 (closed); (iv) *Laborers Local 17 Pension Plan, et al. v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 2505 (severed); (v) *William Kretschmar Revocable Trust, et al. v. Rye Select Broad Market Fund, L.P., et al.*, 09-Civ.-05440 (TPG) (closed); (vi) *Family Swimmers L.P. v. Rye Select Broad*

Market Prime Fund, L.P., 09 Civ. 8570 (TPG); and (vii) *Lawrence S. Rothschild v. Rye Select Broad Market XL Fund, L.P.*, 09 Civ. 8571 (TPG).

(b) The Securities Actions include (i) *Arthur M Brainson IRA RIO v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11212 (lead); (ii) *Finkelstein v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11141 (closed); (iii) *Group Defined Pension Plan & Trust v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11359 (closed); (iv) *Silvers, et al. v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 1111 (closed); (v) *Madelyn Haines, et al. v. Mass. Mut. Life Ins. Co., et al.*, 09 Civ. 05441 (TPG) (closed); and (vi) *Municipal Employees Retirement System of Louisiana v. Tremont Group Holdings, Inc.*, 10 Civ. 01805 (TPG).

(c) The Insurance Actions include (i) *Chateau Fiduciaire S.A. v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 557 (lead); (ii) *The Geoffrey Rabie Credit Shelter Trust, et al. v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 1466 (closed); (iii) *The Harriet Rutter Klein Revocable Trust v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 2253 (closed); (iv) *The Matthew L. Klein Irrevocable Family Trust v. Tremont Group Holdings Inc. et al.*, 09 Civ. 2254 (closed); (v) *The Lugano Trust et al. v. Tremont Capital Management, Inc. et al.*, 09-cv-06840-TPG (closed); and (vi) *Prickett v. Massachusetts Holdings, LLC*, 09 Civ. 3137 (closed).

1.2 “Argus” means Argus Group Holdings Limited, a company registered in Bermuda under the Companies Act 1981 and located at 12 Wesley Street, Hamilton, Bermuda (“Argus Group”), Argus International Life Bermuda Limited, a company incorporated and existing under the laws of Bermuda and located at 12 Wesley Street, Hamilton, Bermuda (“Argus International”), Bermuda Life Insurance Company Limited (“BLIC”) and/or Tremont International Insurance Limited (“TIIL”).

1.3 “Argus Settlement” means the partial settlement between Argus Group, Argus International and TIIL, and the plaintiffs in the Insurance Actions and the Individual Settling Insurance Plaintiffs, which received final approval of the Court on December 23, 2009 (09-cv-557-TPG Docket #112).

1.4 “Authorized Claimant” means any Settlement Class Member entitled to a disbursement from the Net Settlement Fund pursuant to the Plan of Allocation.

1.5 “Authorized Insurance Claimant” means any Settlement Class Member entitled to a disbursement from the Net Insurance Settlement Fund pursuant to the Plan of Allocation.

1.6 “Claimant” means a Person who seeks a disbursement from the Net Settlement Fund, the Net Insurance Settlement Fund and/or the Fund Distribution Account and who submits a completed Proof of Claim and Release with supporting documents as specified in the Proof of Claim and Release.

1.7 “Court” means the United States District Court for the Southern District of New York.

1.8 “Defendants” means each and all of the defendants that have been named in any of the complaints in the Actions.

1.9 “Effective Date” means the first date by which all of the events and conditions specified in ¶ 7.1 of the Stipulation have occurred and been satisfied, respectively.

1.10 “Eligible Carrier” is one of the following insurance carriers that invested in Eligible Hedge Funds: (a) New York Life; (b) Metropolitan Life Insurance Company; (c) John Hancock Variable Life; (d) General American; (e) Pacific Life Insurance Company; (f) Hartford Life Insurance Company; (g) Pruco Life Insurance Company; (h) Security Life of Denver; (i) AIG Life Insurance Company; (j) Sun Life (SLF) Assurance Company; (k) Scottish Annuity and

Life; (l) Nationwide Life; (m) New England Life Insurance Company; (n) Acadia Life Limited; (o) The Scottish Annuity Life Insurance Co. (Cayman) Ltd.; (p) BF&M Life Insurance Company Limited; and (q) The Scottish Annuity and Life Insurance Company (Bermuda) Ltd.

1.11 “Eligible Policyholder” is an owner of a variable universal life insurance policy or deferred variable annuity policy that was issued by an Eligible Carrier.

1.12 “Escrow Account” means the escrow account to be maintained by the Escrow Agent at a bank to be mutually agreed upon by the Plaintiffs’ Settlement Counsel and counsel to the Settling Defendants. The Escrow Account shall be governed by the terms of an escrow agreement satisfactory to Plaintiffs’ Settlement Counsel and counsel to the Settling Defendants.

1.13 “Escrow Agent” means City National Bank or its successor(s) or such other Persons mutually agreed to by Plaintiffs’ State Law and Securities Settlement Class Counsel and counsel to the Settling Defendants.

1.14 “Expense Fund” means the amount, not to exceed two hundred thousand dollars (\$200,000), plus any interest that may accrue thereon, held in a separate Escrow Account for use in the administration of the Settlement of the State Law Actions and Securities Actions. The Expense Fund shall be paid from, and not in addition to, the Gross Settlement Fund.

1.15 “Fairness Hearing” means the hearing at or after which the Court will make a final decision pursuant to Rule 23 and Rule 23.1 of the Federal Rules of Civil Procedure as to whether the Settlement contained in the Stipulation is fair, reasonable and adequate and, therefore, should receive final approval from the Court.

1.16 “Fidelity Bond Recovery” means 50% of the aggregate actual recovery (whether received by way of judgment or settlement), if any, by the Settling Defendants with respect to the fidelity bonds at issue in the coverage litigation captioned *Massachusetts Mutual Life Insurance*

Company, et al. v. Certain Underwriters at Lloyds of London Subscribing to Bond Numbers B0391/FD020720g and B0391/FD020730g, C.A. No. N10C-11-219 (FSS) (Del. Super. Ct.), after the fees and expenses incurred in pursuing the claims brought in that litigation and in the predecessor case in the Delaware Court of Chancery, including but not limited to the fees and expended charged by Perkins Coie LLP, Potter Anderson & Corroon LLP, any discovery or document management vendor retained in connection with that litigation, and any expert witness or consultant retained in connection with that litigation, have been deducted.

1.17 “Final” means, with respect to any order or judgment of the Court, including, without limitation, the Judgment, that such order or judgment represents a final and binding determination of all issues within its scope and is not subject to further review. Without limitation, an order or judgment becomes “Final” when: (a) no appeal from the order or judgment has been filed, the prescribed time for commencing the appeal has expired or (b) an appeal from the order or judgment has been filed, and either (i) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (ii) the order or judgment has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. For purposes of this paragraph, an “appeal” includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus and any other proceedings of like kind. Any appeal pertaining solely to any Plan of Allocation, or to any application for attorneys’ fees and expenses pursuant to ¶¶ 6.1 and 6.2, below, shall not in any way delay or preclude the Judgment from becoming Final.

1.18 “Fund Distribution Claimant” means any limited partner or shareholder in any of the Settling Funds, (excluding the Liquidating Funds) including Settling Funds that were

invested in other Settling Funds as of December 11, 2008, each of which shall be entitled to receive a disbursement from the Fund Distribution Account.

1.19 “Fund Distribution Account” means the account for distribution of the Remaining Fund Proceeds to the Fund Distribution Claimants, and the distribution of all monies remaining in the Liquidating Funds after the Madoff Trustee Proceedings to the Liquidators of the Liquidating Funds.

1.20 “Gross Settlement Fund” means the Initial Settlement Amount, the Fidelity Bond Recovery, the Remaining Tremont Funds, and any recovery from the Assigned Claims, plus any interest that may accrue thereon.

1.21 “Individual Settling Insurance Plaintiffs” means all Persons represented by Berger & Montague, P.C. at the time of the Argus Settlement, who purchased or otherwise acquired variable universal life insurance (“VUL Policies”) issued by Argus International, including all such Persons’ past and present heirs, executors, administrators, successors and assigns, policy holders, policy owners, policy beneficiaries, parties responsible for payment of policy premiums, trusts, trustees, insureds, and/or any other party with any direct or indirect interest in the Policies issued by Argus International during the period from May 10, 1994 through December 11, 2008 (the “Insurance Period”).

1.22 “Initial Settlement Amount” means the principal amount of one hundred million dollars (\$100,000,000).

1.23 “Insurance Class Plaintiffs” means the named plaintiffs in (i) *Chateau Fiduciaire S.A. v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 557 (lead); (ii) *The Geoffrey Rabie Credit Shelter Trust, et al. v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 1466 (closed); (iii) *The Harriet Rutter Klein Revocable Trust v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 2253

(closed); and (iv) *The Matthew L. Klein Irrevocable Family Trust v. Tremont Group Holdings, Inc. et al.*, 09 Civ. 2254 (closed).

1.24 “Insurance Escrow Account” means the escrow account to be maintained by the Insurance Escrow Agent at a bank to be mutually agreed upon by the Plaintiffs’ Insurance Settlement Class Counsel and counsel to the Settling Defendants. The Escrow Account shall be governed by the terms of an escrow agreement satisfactory to Plaintiffs’ Insurance Settlement Class Counsel and counsel to the Settling Defendants.

1.25 “Insurance Escrow Agent” means Citibank, N.A. or its successor(s) or such other Persons mutually agreed to by Plaintiffs’ Insurance Settlement Class Counsel, Berger & Montague, and counsel to the Settling Defendants.

1.26 “Insurance Expense Fund” means the amount, not to exceed twenty thousand dollars (\$20,000), plus any interest that may accrue thereon, held in the Insurance Escrow Account for use in the administration of the Settlement of the Insurance Actions. The Insurance Expense Fund shall be paid from, and not in addition to, the Insurance Settlement Fund.

1.27 “Insurance Notice and Claims Administrator” means The Garden City Group, Inc. or its successors.

1.28 “Insurance Settlement Fund” means an amount equal to 8.2% of the Initial Settlement Amount, the Fidelity Bond Recovery and the Remaining Tremont Funds as provided in ¶¶ 2.2, 2.7 and 2.9, and any recovery from the Assigned Insurance Claims, plus any interest that may accrue thereon.

1.29 “International Fund Liquidations” means the liquidation of Rye Select Broad Market Insurance Portfolio LDC, Rye Select Broad Market XL Portfolio Limited and Broad Market XL Holdings Limited (collectively, the “Liquidating Funds”) pending in the Grand Court

of the Cayman Islands, in which Messrs. Richard Fogerty and James Cleaver of Zolfo Cooper, P.O. Box 1102, 4th Floor, Building 3, Cayman Financial Centre, Grand Cayman, KY1-1102, were appointed as official liquidators (the “Liquidators”).

1.30 “Judgment” means the Final Judgment and Order of Dismissal to be entered by the Court approving the Settlement, substantially in the form attached hereto as Exhibit B.

1.31 “Lead Actions” means the lead cases in the Actions, namely, (i) *Lange, et al. v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11117 (master docket); *Peshkin v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11183 (lead); *Arthur M Brinson IRA RIO v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11212; and *Chateau Fiduciaire S.A. v. Tremont Group Holdings, Inc., et al.*, 09 Civ. 557.

1.32 “Madoff” means Bernard L. Madoff and/or Bernard L. Madoff Investment Securities LLC.

1.33 “Madoff Trustee Proceedings” means the case captioned *Securities Investor Protection Corporation v. Bernard Madoff Investment Securities LLC* and *In re Bernard Madoff Investment Securities LLC, Debtor*, Case No. 08-01789 (BRL), filed in the United States Bankruptcy Court, Southern District of New York, pending before the Honorable Burton R. Lifland, with Irving H. Picard as Trustee, and includes all substantively consolidated proceedings in those cases.

1.34 “Net Insurance Settlement Fund” means the amount remaining in the Insurance Settlement Fund after payment of the items in ¶¶ 5.3 (a) through (e).

1.35 “Net Settlement Fund” means the amount remaining in the Gross Settlement Fund after payment of the items in ¶ 5.2 (a) through (e).

1.36 “Non-Settling Defendants” means the Defendants other than the Settling Defendants that have been named in the complaints in the Actions, including the auditors of the Settling Funds, KPMG LLP and Ernst & Young LLP and their foreign affiliates, and Bank of New York Mellon.

1.37 “Notice” means the Notice and the Insurance Notice to be mailed to Settlement Class Members and Fund Distribution Claimants and the Summary Notice to be published in a periodical with national circulation, as provided in ¶ 3.1 below.

1.38 “Notice and Claims Administrator” means The Garden City Group, Inc. or its successors.

1.39 “Person” means an individual, corporation, limited liability company, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, joint venture, estate, trust, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and any spouses, heirs, predecessors, successors, or assignees of any of the foregoing.

1.40 “Plaintiffs’ Counsel” means all counsel of record in the Actions who agree to be bound by the provisions of ¶ 6.3 of this Stipulation.

1.41 “Plaintiffs’ Insurance Settlement Class Counsel” means Robbins Geller Rudman & Dowd LLP and Wolf Haldenstein Adler Freeman & Herz LLP.

1.42 “Plaintiffs’ Settlement Counsel” means Hagens Berman Sobol Shapiro LLP, Entwistle & Cappucci LLP, Bernstein Liebhard LLP, Robbins Geller Rudman & Dowd LLP, Wolf Haldenstein Adler Freeman & Herz LLP and Berger & Montague, P.C.

1.43 “Plaintiffs’ Settlement Class Counsel” means Hagens Berman Sobol Shapiro LLP, Entwistle & Cappucci LLP, Bernstein Liebhard LLP, Robbins Geller Rudman & Dowd LLP, and Wolf Haldenstein Adler Freeman & Herz LLP.

1.44 “Plaintiffs’ State and Securities Law Settlement Class Counsel” means Hagens Berman Sobol Shapiro LLP, Entwistle & Cappucci LLP and Bernstein Liebhard LLP.

1.45 “Plan of Allocation” means any plan or formula of allocation of the Net Settlement Fund, the Net Insurance Settlement Fund and the Fund Distribution Account as approved by the Court, providing for and pursuant to which the Net Settlement Fund, the Net Insurance Settlement Fund, and the Fund Distribution Account shall be distributed to Authorized Claimants, Authorized Insurance Claimants and Fund Distribution Claimants, respectively, following dissemination of the Notice and such further notice concerning the Plans of Allocation as may be directed by the Court. The Plans of Allocation are not part of the Stipulation and the Settling Defendants shall have no responsibility or liability with respect thereto. The Plans of Allocation proposed in the Notice are not a necessary term of this Stipulation and this Stipulation is not conditioned upon the approval of any particular plan of allocation. Reversal of any order of the Court approving any of the Plans of Allocation shall not constitute grounds for terminating the Settlement, shall not act to terminate the Settlement of the Actions, and shall have no impact on the releases granted herein to the Settling Defendants, the Settling Funds, the Settling Plaintiffs and the Settlement Class. The Fund Distribution Account will be disbursed pursuant to the Fund Distribution Plan of Allocation (as defined in ¶ 2.23, below). Ten (10) days prior to the submission of the Stipulation and Plans of Allocation to the Court pursuant to ¶ 3.1 below, Plaintiffs’ Settlement Class Counsel shall deliver by email to counsel for the Settling Defendants copies of the Plans of Allocation and the Fund Distribution Plan of Allocation.

1.46 “Proof of Claim and Release” means the form to be sent to Settlement Class Members and limited partners and members of the Settling Funds, upon further order(s) of the Court, by which Claimants may make claims against the Net Settlement Fund or the Net Insurance Settlement Fund for damages allegedly incurred by reason of the wrongdoing asserted in the Actions, and by which limited partners and members of the Settling Funds may make claims against the Fund Distribution Account.

1.47 “Released Claims” means any and all direct, indirect and/or derivative claims, demands, rights, liabilities, causes of action, or lawsuits whatsoever (including, but not limited to, any claims for damages, equitable relief, interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory or common law or any other U.S. or foreign law, including Bermudian or Cayman Islands law, rule or regulation, whether fixed or contingent, accrued or not accrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, including both known claims and Unknown Claims, that have been asserted in the Actions, or, to the extent they relate to direct or indirect investments in or by the Settling Funds, that have been or could have been asserted in any forum by Settling Plaintiffs, any Settlement Class Member, any Settling Fund, or any Individual Settling Insurance Plaintiff against any of the Released Parties that arise out of, or are based upon, or related to, the allegations, transactions, facts, matters, or occurrences, representations or omissions involved, set forth, or referred to in the Complaints filed in the Actions, or that relate to the management or administration of the Settling Funds, the purchase of limited partnership interests in or shares of the Settling Funds or the Settling Funds’ investments with Madoff. Released claims do not include Argus’ claims in the action captioned *Argus Group Holdings Limited, et al. v. Tremont Group Holdings, Inc.*, 2009:

No. 153, pending in the Supreme Court of Bermuda, and do not include any of the assigned claims below.

1.48 “Released Parties” means the Settling Defendants.

1.49 “Releasing Parties” means the Settling Plaintiffs, the Settlement Class Members, the Settling Funds, the Individual Settling Insurance Plaintiffs and their respective counsel.

1.50 “Remaining Fund Proceeds” means (i) all amounts remaining in the Rye Funds (with the exception of the Liquidating Funds) after resolution of the Settling Funds’ claims in or relating to the Madoff Trustee Proceedings; and (ii) all amounts the Tremont Funds would otherwise be entitled to from the Fund Distribution Account as a result of the Tremont Funds’ investments in the Rye Funds.

1.51 “Remaining Tremont Funds” means all amounts remaining in Tremont Group Holdings, Inc. after completion of the wind down of its and its subsidiaries’ operations.

1.52 “Rye Funds” means (i) Rye Select Broad Market Fund, L.P.; (ii) Rye Select Broad Market XL Fund, L.P.; (iii) Rye Select Broad Market Prime Fund, L.P.; (iv) Rye Select Broad Market Insurance Fund, L.P.; (v) Rye Select Broad Market Portfolio Limited; (vi) Rye Select Broad Market XL Portfolio Limited; (vii) Broad Market XL Holdings Limited; and (viii) Rye Select Broad Market Insurance Portfolio LDC (but solely with respect to INTAC Independent Technical Analysis Centre Ltd., LifeInvest Opportunity Fund, LDC, Scottish Annuity Company (Cayman) Limited, The Scottish Annuity and Life Insurance Company (Bermuda) Ltd. and The Scottish Annuity Life Insurance Co. (Cayman) Ltd.).

1.53 “Settlement Class” means each of the following sub-classes, collectively:

(a) for the consolidated *State Law Actions*, all Persons other than the Settling Defendants who were holders of limited partnership interests in or shares of the Rye Funds

(other than Rye Select Broad Market Insurance Portfolio LDC, except with respect to INTAC Independent Technical Analysis Centre Ltd., LifeInvest Opportunity Fund, LDC, Scottish Annuity Company (Cayman) Limited, The Scottish Annuity and Life Insurance Company (Bermuda) Ltd. and The Scottish Annuity Life Insurance Co. (Cayman) Ltd.) or the Tremont Funds as of December 11, 2008, and who sustained net losses thereby (the “State Law Subclass”);

(b) for the consolidated *Securities Actions*, all Persons other than the Settling Defendants who purchased limited partnership interests in or shares of the Rye Funds (other than Rye Select Broad Market Insurance Portfolio LDC, except with respect to INTAC Independent Technical Analysis Centre Ltd., LifeInvest Opportunity Fund, LDC, Scottish Annuity Company (Cayman) Limited, The Scottish Annuity and Life Insurance Company (Bermuda) Ltd. and The Scottish Annuity Life Insurance Co. (Cayman) Ltd.) or the Tremont Funds between December 11, 2003 through and including December 11, 2008 for claims arising under the Exchange Act, and between May 10, 1994 through and including December 11, 2008 for claims arising under common law and state law and who sustained net losses thereby (the “Securities Subclass”); and

(c) for the consolidated *Insurance Actions*, all Persons, other than Settling Defendants, who purchased or otherwise acquired VUL Policies or DVA Policies (collectively, the “Policies”) issued by Argus International during the Insurance Period (May 10, 1994 - December 11, 2008) to the extent those policies were invested in Rye Select Broad Market Insurance Portfolio LDC and Rye Select Broad Market XL Portfolio Limited, including any and all past, present, and future heirs, executors, administrators, successors and assigns, policy holders, policy owners, policy beneficiaries, parties responsible for payment of policy premiums, trusts, trustees, insured, and/or any other party with any direct or interest in the Policies during

the Insurance Period and who sustained net losses thereby, but excluding the Individual Settling Insurance Plaintiffs (the “Insurance Subclass”);

(d) Also excluded from the Settlement Class and subclasses are Defendants, the current and former officers and directors of Defendants, and the Individual Settling Defendants’ spouses and dependent children or their successors and legal representatives.¹ Also excluded from the Settlement Class are those Persons who timely and validly request exclusion from the Settlement Class, to the extent that they are able to do so under Rule 23 of the Federal Rules of Civil Procedure, pursuant to the mailed Notice and Summary Notice (as defined in ¶ 3.1, below).

1.54 “Settlement Class Member” or “Member of the Settlement Class” means a Person who falls within the definition of the Settlement Class.

1.55 “Settling Defendants” means (i) MassMutual Holding Trust I, Massachusetts Mutual Life Insurance Company, MassMutual Holding LLC, Oppenheimer Acquisition Corporation, OppenheimerFunds, Inc., Tremont Group Holdings, Inc., Tremont Partners, Inc., Tremont (Bermuda) Limited, Tremont Capital Management Inc., Rye Investment Management (collectively, the “Corporate Settling Defendants”), along with the Corporate Settling Defendants’ present and former parents, subsidiaries, divisions, affiliates, attorneys, accountants, insurers, predecessors and successors and all of the Corporate Settling Defendants’ current and former members, officers, directors, principals, shareholders, limited and general partners, employees and agents of the Corporate Settling Defendants, in each instance only in their capacity as such, (ii) the Settling Funds’, along with the Settling Funds’ trustees, directors, administrators, general partners, employees, attorneys and agents, and each and all of the heirs,

¹ Additionally, Argus International Life Bermuda Limited is excluded from the State Law and Securities Subclasses to the extent it was a purchaser of, and/or a shareholder or limited partner in, the Rye Funds or the Tremont Funds.

executors, administrators, spouses, assigns and/or bankruptcy estates of such persons, in each instance only in their capacity as such, (iii) any entity in which any of the Corporate Settling Defendants has or had a controlling interest or which is or was related to or affiliated with any of the Corporate Settling Defendants, and (iv) Harry Hodges, James Mitchell, John V. Murphy, Kurt Wolfgruber, Lynn O. Keeshan, Patrick Kelly, Robert I. Schulman, Rupert A. Allan, Sandra Manzke, Stephen Thomas Clayton, Stuart Pologe, Suzanne Hammond and Cynthia J. Nicoll (the “Individual Settling Defendants”), but excluding the Non-Settling Defendants in the Actions and Madoff or any company owned or controlled by him.

1.56 “Settling Defendants’ Claims” means any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Actions or any forum by the Settling Defendants or any of them or the successors and assigns of any of them against any of the Settling Plaintiffs, Settlement Class Members, the Settling Funds, or any attorney representing any Settling Plaintiff, which arise out of or relate in any way to the institution, prosecution, or settlement of the Actions (except for claims to enforce the Settlement).

1.57 “Settling Funds” means the Rye Funds and the Tremont Funds.

1.58 “Settling Class Plaintiffs” means the named lead plaintiffs in each of the Lead Actions.

1.59 “Settling Plaintiffs” means the named lead plaintiffs in each of the Lead Actions and the Individual Settling Insurance Plaintiffs.

1.60 “Settling Parties” means, collectively, the Settling Defendants and the Settling Plaintiffs (on behalf of themselves and with respect to all representative plaintiffs on behalf of

the Settlement Class Members and the Settling Funds). The Individual Settling Insurance Plaintiffs are settling only on behalf of themselves.

1.61 “SIPC Recovery” means all amounts received (with the exception of the Liquidating Funds) by the Settling Funds through the Madoff Trustee Proceedings.

1.62 “State Law and Securities Plaintiffs” means the named plaintiffs in (i) *Lange, et al. v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11117 (master docket); (ii) *Peshkin v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11183 (lead); and (iii) *Arthur M Brainson IRA R/O v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11212.

1.63 “State Law Plaintiffs” means the named plaintiffs in (i) *Lange, et al. v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11117 (master docket); and (ii) *Peshkin v. Tremont Group Holdings, Inc., et al.*, 08 Civ. 11183 (lead).

1.64 “Tremont” means Tremont Group Holdings, Inc. and all of its past and present parents, subsidiaries, divisions, joint ventures, predecessors, successors, assigns, related or affiliated entities, and any entity in which any of them has a controlling interest.

1.65 “Tremont Funds” means (i) Tremont Market Neutral Fund L.P.; (ii) Tremont Market Neutral Fund II, L.P.; (iii) Tremont Market Neutral Fund Limited; (iv) Tremont Opportunity Fund Limited; (v) Tremont Opportunity Fund II L.P.; (vi) Tremont Opportunity Fund III L.P.; (vii) Tremont Arbitrage Fund, L.P.; (viii) Tremont Arbitrage Fund-Ireland; and (ix) Tremont Strategic Insurance Fund, L.P.

1.66 “Unknown Claims” means any Released Claim that any Settling Plaintiff, Settlement Class Member, Settling Fund or any current or former owner of limited partnership interests in or shares of any Settling Fund does not know or suspect to exist in his, her, its or a Settling Fund’s favor at the time of the release of the Settling Defendants that if known by him,

her or it, might have affected his, her or its settlement with and release of the Settling Defendants, or might have affected his, her or its decision not to object to this Settlement or not to exclude himself, herself or itself from the Settlement Class. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Settling Plaintiffs and the Settling Defendants shall expressly waive, and each of the Settlement Class Members and current and former owners of limited partnership interests in or shares of the Settling Funds (on behalf of themselves and the Settling Funds) shall be deemed to have waived and by operation of the Judgment shall have waived, the provisions, rights and benefits of California Civil 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.

The Settling Plaintiffs and the Settling Defendants shall expressly waive, and each of the Settlement Class Members and current and former owners of limited partnership interests in or shares of the Settling Funds (on behalf of themselves and the Settling Funds) shall be deemed to have waived and by operation of the Judgment shall have 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, that is similar, comparable or equivalent to California Civil Code §1542. The Settling Plaintiffs, Settlement Class Members, the Settling Funds and current and former owners of limited partnership interests in or shares of the Settling Funds (on behalf of themselves and the Settling Funds) may hereafter discover facts in addition to or different from those that any of

them now knows or believes to be true with respect to the subject matter of the Released Claims, but each Settling Plaintiff and the Settling Funds shall expressly have, and each Settlement Class Member and current or former owner of limited partnership interests in or shares of the Settling Funds (on behalf of themselves and the Settling Funds) shall be deemed to have and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Settling Plaintiffs and the Settling Funds acknowledge, and the Settlement Class Members and the current and former owners of limited partnership interests in and shares of the Settling Funds (on behalf of themselves and the Settling Funds) shall be deemed to have acknowledged, and by operation of the Judgment shall have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

2. The Settlement

a. The Initial Settlement Amount and the Gross Settlement Fund

2.1 The Corporate Settling Defendants shall cause the Initial Settlement Amount to be paid to the Escrow Agent as part of the Gross Settlement Fund. The Initial Settlement Amount shall be paid in the form of a wire transfer into an interest bearing account maintained by the Escrow Agent, subject to Court oversight, within fifteen (15) business days from the date the Court grants preliminary approval of the Settlement as described herein. If the Initial Settlement Amount is not timely deposited, the Corporate Settling Defendants, but not the insurers

contributing to the Initial Settlement Amount, shall cause to be paid interest at the rate of 5% per annum until deposited with the Escrow Agent.

2.2 Within ten days from the date on which the Corporate Settling Defendants cause the Initial Settlement Amount to be paid, the Escrow Agent shall transfer to the Insurance Escrow Agent, as escrow agent for the Insurance Class Plaintiffs and the Individual Settling Insurance Plaintiffs, 8.2% of the Initial Settlement Amount.

2.3 Other than as described in ¶¶ 2.2, 2.7 and 2.9, no amount may be disbursed from the Gross Settlement Fund prior to the Effective Date, except that: (a) the Expense Fund shall be available to the State Law and Securities Plaintiffs, subject to Court approval, for the payment of the costs of the Notice (“Notice and Administrative Cost Fund”) described in ¶ 3.1 as they become due; (b) Taxes and Tax Expenses (as defined in ¶ 2.16(b), below) may be paid from the Gross Settlement Fund as they become due; (c) any Fee and Expense Award that is allowed by the Court pursuant to ¶ 6.3 below, may be paid from the Gross Settlement Fund in accordance with those provisions; and (d) the Gross Settlement Fund may be repaid to the Settling Defendants to the extent authorized under ¶¶ 2.4 and 7.4 below.

2.4 If the Settlement as described herein is not approved by the Court or approval of the Settlement is overturned on appeal or by writ, the Gross Settlement Fund, including the Initial Settlement Amount and all interest earned on the Settlement Fund while held in escrow, less all disbursements made under ¶ 2.3, shall be paid to the Corporate Settling Defendants by the Escrow Agent and the Insurance Escrow Agent within ten (10) business days after entry of said order or writ. Any Fee and Expense Award will be refunded, reimbursed, and repaid by Plaintiffs’ Settlement Counsel to the Corporate Settling Defendants as provided in ¶ 6.3.

2.5 Under no circumstances will the Settling Defendants be required pursuant to this Stipulation to pay to any Person more than the Initial Settlement Amount, nor will they be required to transfer to the Escrow Agent more than the amounts comprising the Gross Settlement Fund, or interest, if applicable, except as set forth in ¶¶ 2.8 and 2.20 below.

b. Fidelity Bond Recovery

2.6 In addition to the Initial Settlement Amount, the Corporate Settling Defendants shall cause to be transferred to the Escrow Agent, within ten (10) business days of receipt, the Fidelity Bond Recovery, for deposit in an interest-bearing account. The Corporate Settling Defendants shall prosecute the Fidelity Bond coverage litigation in good faith and shall have the right to settle with any and all of the bond carriers on such terms that they deem reasonable, so long as they act in good faith. The Fidelity Bond Recovery shall bear interest at the rate of 5% per annum from ten business days after receipt of the Fidelity Bond Recovery by the Corporate Settling Defendants until deposited in an account controlled by the Escrow Agent.

2.7 Within ten (10) days of the Escrow Agent's receipt of the Fidelity Bond Recovery, the Escrow Agent shall transfer to the Insurance Escrow Agent 8.2% of the transferred proceeds from the Fidelity Bond Recovery to be part of the Insurance Settlement Fund.

c. Remaining Tremont Funds

2.8 In addition to the Initial Settlement Amount and the Fidelity Bond Recovery, the Corporate Settling Defendants shall cause to be transferred to the Escrow Agent, within ten (10) days of completion of the wind down of the operations of Tremont Group Holdings, Inc. and its subsidiaries, the Remaining Tremont Funds, for deposit in an interest-bearing account.

2.9 Within ten (10) days of the Escrow Agent's receipt of the Remaining Tremont Funds, the Escrow Agent shall transfer to the Insurance Escrow Agent 8.2% of the transferred proceeds from the Remaining Tremont Funds to be part of the Insurance Settlement Fund.

d. Insurance Settlement Fund

2.10 No amount may be disbursed from the Insurance Settlement Fund prior to the Effective Date, except that: (a) the Insurance Expense Fund shall be available to the Insurance Class Plaintiffs, subject to Court approval, for the payment of the costs of the Notice (“Notice and Administrative Cost Fund”) described in ¶ 3.1 as they become due; (b) Taxes and Tax Expenses (as defined in ¶ 2.16(b), below) may be paid from the Insurance Settlement Fund as they become due; (c) any Fee and Expense Award that is allowed by the Court pursuant to ¶ 6.3, below, may be paid from the Insurance Settlement Fund in accordance with those provisions; and (d) the Insurance Settlement Fund may be repaid to the Settling Defendants to the extent authorized under ¶¶ 2.11 and 7.4 below.

2.11 If the Settlement as described herein is not approved by the Court or approval of the Settlement is overturned on appeal or by writ, the Insurance Settlement Fund, including all interest earned while held in escrow, less all disbursements made under ¶ 2.10, shall be paid to the Settling Defendants by the Insurance Escrow Agent within ten (10) business days after entry of said order or writ. Any Fee and Expense Award shall be refunded, reimbursed, and repaid by Plaintiffs’ Insurance Settlement Class Counsel to the Settling Defendants as provided in ¶ 6.3 below.

e. The Handling of the Settlement Fund

2.12 The Escrow Agent and the Insurance Escrow Agent shall invest the Gross Settlement Fund and the Insurance Settlement Fund, respectively, in instruments backed by the full faith and credit of the United States Government or fully insured by the U.S. Government or an agency thereof and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then current market rates. The Escrow Agent and the Insurance Escrow

Agent shall bear all risks related to investment of the Gross Settlement Fund and the Insurance Settlement Fund, respectively.

2.13 The Escrow Agent and the Insurance Escrow Agent shall not disburse the Gross Settlement Fund and the Insurance Settlement Fund, respectively, except as provided in this Stipulation or by an order of the Court.

2.14 The Escrow Agent and the Insurance Escrow Agent shall only be authorized to execute transactions that are consistent with the terms of this Stipulation or order(s) of the Court.

2.15 All funds held by the Escrow Agent and the Insurance Escrow Agent shall be deemed and considered to be *in custodia legis*, and shall remain subject to the oversight and jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Stipulation and/or further order(s) of the Court.

f. Taxes

2.16 The Settling Parties, the Escrow Agent, and the Insurance Escrow Agent agree to treat the Gross Settlement Fund and the Insurance Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1. The Escrow Agent and the Insurance Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶ 2.14, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent and Insurance Escrow Agent to prepare properly and timely deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(a) For the purpose of §468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow

Agent and the Insurance Escrow Agent. The Escrow Agent and the Insurance Escrow Agent shall satisfy the administrative requirements imposed by Treas. Reg. §1.468B-2 by, *e.g.*, (i) obtaining a taxpayer identification number, (ii) satisfying any information reporting or withholding requirements imposed on disbursements from the Gross Settlement Fund and the Insurance Settlement Fund, and (iii) timely and properly filing applicable federal, state and local tax returns necessary or advisable with respect to the Gross Settlement Fund and the Insurance Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)) and paying any taxes reported thereon. Such returns (as well as the election described in this ¶ 2.16) shall be consistent with this ¶ 2.16 and in all events shall reflect that all Taxes as defined in subsection (b) below (including any estimated Taxes, interest or penalties) on the income earned by the Gross Settlement Fund and the Insurance Settlement Fund shall be paid out of the Gross Settlement Fund and the Insurance Settlement Fund as provided in ¶ 5.1(c) hereof.

(b) All (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Gross Settlement Fund and the Insurance Settlement Fund, including, without limitation, any taxes or tax detriments that may be imposed upon the Settling Defendants or their counsel with respect to any income earned by the Gross Settlement Fund and the Insurance Settlement Fund for any period during which the Gross Settlement Fund and the Insurance Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes (collectively, “Taxes”), and (ii) expenses and costs incurred in connection with the operation and implementation of this ¶ 2.16, including, without limitation, expenses of tax attorneys and/or accountants and mailing and disbursement costs and expenses relating to filing (or failing to file) the returns described in this ¶ 2.16 (collectively, “Tax Expenses”), shall be paid out of the Gross Settlement Fund and the Insurance Settlement Fund,

as appropriate; in all events neither the Settling Defendants nor their counsel shall have any liability or responsibility for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Gross Settlement Fund and the Insurance Settlement Fund, respectively, and shall timely be paid by the Escrow Agent and the Insurance Escrow Agent out of the Gross Settlement Fund and the Insurance Settlement Fund, respectively, without prior order from the Court and the Escrow Agent and the Insurance Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants and Authorized Insurance Claimants, respectively, any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(1)(2)); neither the Settling Defendants nor their counsel are responsible therefore, nor shall they have any liability therefore. The Settling Parties agree to cooperate with the Escrow Agent, the Insurance Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶ 2.16.

g. Assignment of Claims

2.17 Upon request of Plaintiffs' State Law and Securities Settlement Class Counsel, the Settling Funds (with the exception of the Liquidating Funds) shall assign to Plaintiffs' State and Securities Law Settlement Class Counsel, for the benefit of the State Law Subclass and Securities Subclass, the claims specified below (the "Assigned Claims"), which claims may be prosecuted at the discretion of Plaintiffs' State Law and Securities Settlement Class Counsel if prosecution of such claims is deemed to be in the best interest of the State Law Subclass and Securities Subclass:

- (a) the Settling Funds' claims against Bank of New York Mellon; and

(b) the Settling Funds' claims against KPMG LLP (and its affiliates) and Ernst & Young LLP (and its affiliates) relating to their audits of the Settling Funds. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, neither the Liquidating Funds nor the Liquidators shall assign any claims pursuant to this Stipulation or as part of this Settlement.

2.18 Settling Defendants will not oppose any request made by Plaintiffs' Insurance Settlement Class Counsel and Berger & Montague to the Liquidators for the assignment of the claims of Rye Select Broad Market Insurance Portfolio LDC to Plaintiffs' Insurance Settlement Counsel and Berger & Montague, for the benefit of the Insurance Subclass and the Individual Settling Insurance Plaintiffs, the claims specified below (the "Assigned Insurance Claims"), which claims may be prosecuted at the discretion of Plaintiffs' Insurance Settlement Class Counsel and Berger & Montague, P.C., if prosecution of such claims is deemed to be in the best interest of the Insurance Subclass and the Individual Settling Insurance Plaintiffs:

(a) Rye Select Broad Market Insurance Portfolio LDC's claims against Bank of New York Mellon; and

(b) Rye Select Broad Market Insurance Portfolio LDC's claims against KPMG LLP, Ernst & Young LLP, and any affiliates or related entities, concerning their audits of Rye Select Broad Market Insurance Portfolio LDC. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, neither the Liquidating Funds nor the Liquidators shall have any obligation whatsoever to consent to the assignment of any claims pursuant to this Stipulation or as part of this Settlement, including but not limited to claims to Plaintiffs'

Insurance Settlement Class Counsel and Berger & Montague and/or claims for the benefit of the Insurance Subclass and the Individual Settling Insurance Plaintiffs.

2.19 Subject to ¶¶ 4.4 and 4.5, Settling Plaintiffs shall use the Net Settlement Fund and the Net Insurance Settlement Fund to indemnify and hold the Settling Defendants harmless from any and all damages, judgments, settlement payments, reasonable attorneys' fees and any other reasonable costs or expenses incurred in the defense of any claims or causes of action asserted by any party against the Settling Defendants in any proceedings involving the Assigned Claims or the Assigned Insurance Claims ("Losses"), and each such Loss shall be paid in full by Settling Plaintiffs within thirty (30) days after it is incurred by any Settling Defendant.

h. The Fund Distribution Account

2.20 The Settling Funds (with the exception of the Liquidating Funds) shall cause the Remaining Fund Proceeds to be paid to the Escrow Agent in the form of a wire transfer into an interest bearing account maintained by the Escrow Agent, subject to Court oversight, within ten (10) business days from the later of the date on which (a) bankruptcy court approval of any settlement agreement between the Settling Funds and the Trustee in the Madoff Trustee Proceedings becomes Final; or (b) any order or judgment resolving all claims asserted by the Trustee in the Madoff Trustee Proceedings against the Settling Funds becomes Final. If the Remaining Fund Proceeds are not timely deposited, the Corporate Settling Defendants shall cause interest to be paid at the rate of 5% per annum until deposited in an account controlled by the Escrow Agent. Any payments pursuant to this paragraph shall be net of a reserve, to be determined by Tremont and the Settling Plaintiffs for contingencies associated with accounting, tax, legal, regulatory and other costs of winding up the Settling Funds.

2.21 In addition to the Remaining Fund Proceeds, the Rye Funds (with the exception of the Liquidating Funds) shall cause to be transferred to the Escrow Agent, within ten (10)

business days of receipt, 100% of any SIPC Recovery, for deposit in an interest-bearing account. If the SIPC Recovery is not timely deposited, the Corporate Settling Defendants shall cause to be paid interest at the rate of 5% per annum until deposited in an account controlled by the Escrow Agent. Any payments pursuant to this paragraph shall be net of a reserve, to be determined by Tremont and the Settling Plaintiffs for contingencies associated with accounting, tax, legal, regulatory and other costs of winding up the Settling Funds. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, neither the Liquidating Funds nor the Liquidators shall have any obligation whatsoever to transfer any SIPC Recovery to the Escrow Agent pursuant to this Stipulation or as part of this Settlement.

2.22 The Settling Defendants shall negotiate the terms of any settlement in the Madoff Trustee Proceedings at their own cost, and shall periodically provide status reports to Plaintiffs' Settlement Counsel to the extent permissible.

2.23 The Fund Distribution Account will be held in an account separate from the Gross Settlement Fund, and will be disbursed to Fund Distribution Claimants and the Liquidators of the Liquidating Funds pursuant to a separate plan of allocation to be approved by the Court ("Fund Distribution Plan of Allocation").

i. Confirmatory and Third Party Discovery

2.24 The Settling Defendants have provided discovery to Plaintiffs' Settlement Counsel as agreed, including, but not limited to, all documents produced in related investigations, the amount of monies remaining in the Settling Funds, the data supporting net investment figures of Settlement Class Members, and the assets held by and solvency of Tremont Group Holdings, Inc. and Tremont Partners, Inc., which shall be used to confirm the fairness and reasonableness of the Settlement and may be used to prosecute Assigned Claims, the Assigned Insurance Claims, or claims against Non-Settling Defendants.

2.25 In any action involving an Assigned Claim, an Assigned Insurance Claim, or a claim against a Non-Settling Defendant, the Settling Defendants will be subject to discovery requests from Plaintiffs' Settlement Counsel as a non-party and will provide reasonable cooperation to Plaintiffs' Settlement Counsel.

2.26 The Settling Defendants will not be required to waive any privilege or work-product protection, including, but not limited to, any joint defense or joint-interest privilege or protection.

3. Preliminary Approval Order, Notice Order, and Fairness Hearing

3.1 After execution of the Stipulation, the Settling Parties shall submit the Stipulation with its Exhibits and the Plans of Allocation to the Court, and the Settling Class Plaintiffs in the Lead Actions shall apply for entry of an order (the "Preliminary Approval Order") substantially in the form and content of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement and Plans of Allocation, and final approval of forms of notice to be published (the "Summary Notice") and to be mailed or otherwise provided to the Settling Funds, all Settlement Class Members and all Fund Distribution Claimants who can be identified with reasonable effort (the "Notice" and the "Insurance Notice"), substantially in the form and with the content of Exhibits A-1, A-2 and A-3 hereto, respectively. The Notice shall include the general terms of the Settlement and the provisions of the Plans of Allocation, and shall set forth the procedure by which recipients of the Notice may object to the Settlement or the Plans of Allocation or request to be excluded from the Settlement Class. The date and time of the Fairness Hearing shall be added to the Notice before it is mailed or otherwise provided to Settlement Class Members, the Settling Funds and Fund Distribution Claimants.

3.2 To assist in dissemination of the Notice, upon preliminary approval of the Settlement, Tremont shall provide to Plaintiffs' Settlement Class Counsel the last known names,

addresses, email addresses and telephone numbers of the Settlement Class Members and Fund Distribution Claimants in Tremont's possession, and shall perform the initial mailing to Settlement Class Members and Fund Distribution Claimants in conformity with the instructions of Plaintiffs' Settlement Class Counsel, the cost of which shall be borne by the Expense Fund. Tremont shall also provide such information in its possession as is necessary to calculate the net losses, if any, of each Settlement Class Member, Settling Fund and Fund Distribution Claimant, and other transaction information in its possession necessary for the disbursement of the Fund Distribution Account and the Net Settlement Fund.

3.3 The Settling Parties shall request that, after the Notice and Summary Notice have been mailed and published, respectively, in accordance with ¶ 3.1, above, the Court hold the Fairness Hearing and finally approve the Settlement and Plans of Allocation.

3.4 The Settling Parties (not including the Individual Settling Insurance Plaintiffs) hereby stipulate to certification of the Settlement Class, pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, solely for purposes of this Stipulation and the Settlement set forth herein.

4. Releases

4.1 Upon the Effective Date, as defined in ¶ 1.9 hereof, the Releasing Parties, on behalf of themselves, their successors and assigns, and any other Person claiming (now or in the future) through or on behalf of them, regardless of whether any such Releasing Party ever seeks or obtains by any means, including, without limitation, by submitting a Proof of Claim and Release, any disbursement from the Net Settlement Fund, the Net Insurance Settlement Fund or the Fund Distribution Account, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Settling Defendants and shall have covenanted not to sue the Settling Defendants

with respect to all such Released Claims, and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any such Released Claim against the Settling Defendants. Nothing contained herein shall, however, bar the Releasing Parties from bringing any action or claim to enforce the terms of this Stipulation or the Judgment. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, there shall be no release of claims by a Person who purchased limited partnership interests in or shares of a Liquidating Fund against the Liquidating Fund.

4.2 Upon the Effective Date, as defined in ¶ 1.9 hereof, the Settling Defendants, on behalf of themselves, their heirs, executors, administrators, predecessors, successors and assigns, and their affiliates as set forth in ¶ 1.55, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged each and all of the Settling Plaintiffs, Settlement Class Members, the Settling Funds, Plaintiffs' Settlement Counsel, and the named plaintiffs and their counsel in the Actions from all Settling Defendants' claims and shall forever be enjoined from prosecuting the Settling Defendants' Claims against the Settling Plaintiffs, Settlement Class Members, Plaintiffs' Settlement Counsel, and the named plaintiffs and their counsel in the Actions. Nothing contained herein shall, however, bar the Settling Defendants from bringing any action or claim to enforce the terms of this Stipulation or the Judgment. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, there shall be no release of claims by a Liquidating Fund against a Person who purchased limited partnership interests in or shares of the Liquidating Fund.

4.3 The Settling Defendants (with the exception of the Liquidating Funds) agree that, if there are any Non-Settling Defendants in the Actions or in any action involving Assigned Claims, the Settling Defendants as part of any later settlement by Settling Plaintiffs with any

such Non-Settling Defendant(s) will, if requested by Settling Plaintiffs, provide full and complete release of all claims against such Defendant(s) and any of its (their) partners, principals, officers or directors, to the extent they arise out of the claims in the Actions, including, but not limited to, claims for contribution, indemnity, malpractice, negligence or otherwise arising under federal or state law. The release set forth in the foregoing sentence shall be conditioned on Settling Plaintiffs obtaining comparable releases for the Settling Defendants from any other Defendants in the Actions, or in any action involving Assigned Claims, who settle with Settling Plaintiffs.

4.4 To the extent permitted by applicable law, all Persons, including without limitation the Non-Settling Defendants in the Actions and any other Persons later named as defendants in the Actions, shall be permanently enjoined, barred and restrained from commencing, prosecuting or asserting any claims or actions for contribution, indemnity or otherwise against the Settling Defendants seeking, as damages or otherwise, the recovery of all or any part of any liability, judgment or settlement which they pay or are obligated to pay or agree to pay to the Settlement Class or the Settling Funds, as a result of such Persons' participation in any acts, facts, statements or omissions that were or could have been alleged in the Actions (whether under the Securities Act of 1933 or the Securities Exchange Act of 1934, state law, foreign law or otherwise) as claims, cross-claims, counterclaims, third-party claims or otherwise, whether asserted in the Actions in this Court or in any federal or state court or any other court, arbitration proceeding, administrative agency or other forum in the United States or elsewhere. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, there shall be no release of claims, including but not limited to claims or actions for contribution or indemnity, (i) by a Liquidating Fund against any Tremont Fund that purchased limited

partnership interests in or shares of the Liquidating Fund, and (ii) by a Tremont Fund that purchased limited partnership interests in or shares of a Liquidating Fund against the Liquidating Fund.

4.5 Any final verdict or judgment that may be obtained by one or more of the Settling Plaintiffs or one or more members of the Settlement Class, bound by a final judgment approving this Stipulation, against the Non-Settling Defendants in the Actions shall be reduced, if required by law, by the amount of the consideration paid by the Settling Defendants pursuant to this Stipulation, or the amount that corresponds to the percentage of responsibility of the Settling Defendants, whichever is greater. Nothing herein shall be deemed to release or otherwise bar or impair Settling Defendants' claims against any or all of their insurers.

5. Administration and Calculation of Claims, Final Awards and Supervision and Distribution of Gross Settlement Fund

5.1 Upon the Effective Date and thereafter and upon further notice to the Settlement Class and appropriate orders of the Court, the Notice and Claims Administrator and the Insurance Notice and Claims Administrator, subject to such supervision and direction of the Court and/or Plaintiffs' Settlement Class Counsel as may be necessary or as circumstances may require, shall administer and calculate the claims to be submitted by Authorized Claimants, Authorized Insurance Claimants and Fund Distribution Claimants and shall oversee distribution of the Net Settlement Fund, the Net Insurance Settlement Fund and the Fund Distribution Account, pursuant to the Plans of Allocation to Authorized Claimants, Authorized Insurance Claimants and Fund Distribution Claimants.

5.2 Subject to the terms of this Stipulation and any order(s) of the Court, the Gross Settlement Fund shall be applied as follows:

(a) to pay the Insurance Escrow Agent the monies provided for in ¶¶ 2.2, 2.7 and 2.9;

(b) to pay all costs and expenses reasonably and actually incurred in connection with locating members of the State Law Subclass and the Securities Subclass and providing notice to them pursuant to ¶ 3.1, above, in connection with administering and distributing the Net Settlement Fund to Authorized Claimants and Fund Distribution Account to Fund Distribution Claimants, and in connection with paying escrow fees and costs, if any;

(c) to pay all costs and expenses, if any, reasonably and actually incurred in soliciting members of the State Law Subclass' and the Securities Subclass' claims and Fund Distribution Claimants and assisting with the filing and processing of such claims;

(d) to pay the Taxes and Tax Expenses described in ¶ 2.16(b), above;

(e) to pay any Fee and Expense Award that is allowed by the Court pursuant to ¶¶ 6.1 and 6.3, below, subject to and in accordance with the provisions of ¶¶ 6.1 through 6.4, below;

(f) to make any indemnification payments pursuant to ¶ 2.19, above; and

(g) to distribute to Authorized Claimants pursuant to the Plan of Allocation the Net Settlement Fund, which shall be the amount held by the Escrow Agent after payment of items (a) through (e) above.

5.3 Subject to the terms of this Stipulation and any order(s) of the Court, the Insurance Settlement Fund shall be applied as follows:

(a) to pay the Taxes and Tax Expenses described in ¶ 2.16(b), above;

(b) to fund the settlement for the Individual Settling Insurance Plaintiffs

(c) to pay all costs and expenses reasonably and actually incurred in connection with locating members of the Insurance Subclass and providing notice to them pursuant to ¶ 3.1, above, in connection with administering and distributing the Insurance Settlement Fund to Authorized Insurance Claimants, and in connection with paying escrow fees and costs, if any;

(d) to pay all costs and expenses, if any, reasonably and actually incurred in soliciting members of the Insurance Subclass' claims and assisting with the filing and processing of such claims;

(e) to pay any Fee and Expense Award that is allowed by the Court pursuant to ¶¶ 6.2 and 6.3, below, subject to and in accordance with the provisions of ¶¶ 6.1 through 6.4, below;

(f) to make any indemnification payments pursuant to ¶ 2.19, above; and

(g) to distribute to Authorized Insurance Claimants pursuant to the Insurance Plan of Allocation the Net Insurance Settlement Fund, which shall be the amount held by the Insurance Escrow Agent after payment of items (a) through (e) above.

5.4 Subject to the terms of this Stipulation and any order(s) of the Court, the Fund Distribution Account shall be distributed to Fund Distribution Claimants and the Liquidators of the Liquidating Funds pursuant to the Fund Distribution Plan of Allocation.

5.5 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Plans of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund, the Net Insurance Settlement Fund and Fund Distribution Account shall be distributed to Authorized Claimants,

Authorized Insurance Plaintiffs and Fund Distribution Claimants/Liquidators, respectively, subject to and in accordance with the following:

(a) Each Claimant shall be required to submit to the Notice and Claims Administrator or the Insurance Notice and Claims Administrator a completed Proof of Claim and Release signed under penalty of perjury and supported by such documents as specified in the Proof of Claim and Release and as are reasonably available to such Claimant;

(b) Except as otherwise ordered by the Court, all Claimants who fail timely to submit a valid Proof of Claim and Release within such period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any disbursements from the Net Settlement Fund and the Net Insurance Settlement Fund pursuant to the Stipulation and the Settlement as set forth herein, but shall in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment, but such Claimants shall not be barred from receiving a disbursement from the Fund Distribution Account;

(c) The Net Settlement Fund, the Net Insurance Settlement Fund and Fund Distribution Account shall be distributed to Authorized Claimants, Authorized Insurance Claimants and Fund Distribution Claimants/Liquidators, respectively, substantially in accordance with the respective Plans of Allocation approved by the Court upon such further notice as may be required. However, the Notice and Claims Administrator and the Insurance Notice and Claims Administrator shall reserve an appropriate amount to cover any unresolved disputes with any Claimant or taxing authority until such dispute is fully and finally resolved.

(d) No funds from the Net Settlement Fund, the Net Insurance Settlement Fund and the Fund Distribution Account shall be distributed to Authorized Claimants,

Authorized Insurance Claimants or Fund Distribution Claimants/Liquidators, respectively, until after all appeals from any order(s) of the Court approving the Settlement as described herein and from the Judgment and any further proceedings on remand have been resolved, or the time for any such appeals has expired;

(e) All Persons who fall within the definition of the Settlement Class and who do not timely and validly request to be excluded from the Settlement Class in accordance with the instructions set forth in the Notice (as defined in ¶ 3.1, above) shall be subject to and bound by the provisions of the Stipulation and the Judgment pertaining to all Released Claims regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim and Release or any similar document, any disbursement from the Net Settlement Fund, the Net Insurance Settlement Fund or Fund Distribution Account;

(f) All Settlement Class Members who timely and validly request to be excluded from the Settlement Class in accordance with the instructions set forth in the Notice (as defined in ¶ 3.1 above) shall nonetheless be subject to and bound by the provisions of the Stipulation and the Judgment pertaining to the release and discharge of all Released Claims that were or could have been asserted by or on behalf of any Settling Fund (with the exception of the Liquidating Fund) in the Actions or in any other action or proceeding regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim and Release or any similar document, any disbursement from the Net Settlement Fund, the Net Insurance Settlement Fund or the Fund Distribution Account. Settlement Class Members who timely and validly request to be excluded from the Settlement Class in accordance with the instructions set forth in the Notice shall not be deemed to have waived their interests, if any, in the Fund Distribution Account.

5.6 This is not a claims-made settlement. The Settling Defendants shall not be entitled to receive any disbursement from the Net Settlement Fund, the Net Insurance Settlement Fund or the Fund Distribution Account once the Settlement becomes Final. Neither the Settling Defendants nor their counsel shall have any responsibility for or liability to any Person (including without limitation, any Settling Fund or any shareholder or limited partner of any Settling Fund) with respect to the investment or distribution of the Gross Settlement Fund, the Net Settlement Fund, the Net Insurance Settlement Fund, the Fund Distribution Account, the Plans of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes, or any losses incurred in connection with any such matters. No Person shall have any claim against any Settlement Class Member, Individual Settling Insurance Plaintiffs, Plaintiffs Settlement Counsel, the Notice and Claims Administrator or the Insurance Notice and Claims Administrator, based on distributions from the Gross Settlement Fund, the Net Settlement Fund, the Net Insurance Settlement Fund or Fund Distribution Account made substantially in accordance with the Stipulation and the Settlement contained herein, any Plan of Allocation, or further orders of the Court. No Person shall have any claim against the Settling Defendants or counsel for the Settling Defendants based on distributions made from the Gross Settlement Fund, the Net Settlement Fund, the Net Insurance Settlement Fund, the Fund Distribution Account or distributions made to or by the Escrow Agent or the Insurance Escrow Agent.

5.7 If there is any balance remaining in the Net Settlement Fund or the Net Insurance Settlement Fund after six (6) months from the date of all distributions of the Net Settlement Fund or the Net Insurance Settlement Fund (whether by reason of tax refunds, uncashed checks, monies recovered from the prosecution of any Assigned Claim, or otherwise), Plaintiffs'

Settlement Class Counsel may reallocate such balance among Authorized Claimants and Authorized Insurance Plaintiffs in an equitable and economic fashion, or to be distributed *cy pres*, subject to the approval of the Settling Class Plaintiffs and the Court.

5.8 If there is any balance remaining in the Fund Distribution Account after six (6) months from the date of all disbursements from the Fund Distribution Account (whether by reason of tax refunds, uncashed checks, or otherwise), Plaintiffs' Settlement Class Counsel may reallocate such balance among Fund Distribution Claimants in an equitable and economic fashion, or to be distributed *cy pres*, subject to the approval of the Settling Class Plaintiffs and the Court.

5.9 It is understood and agreed by the Settling Parties that the Plans of Allocation, including, but not limited to, any adjustments to any Authorized Claimant's claim, any Authorized Insurance Claimant's claim or any Fund Distribution Claimant's or Liquidator's claim pursuant thereto, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plans of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the Stipulation and the Settlement set forth herein, or any other orders entered pursuant to the Stipulation.

6. Settling Plaintiffs' Attorneys' Fees and Reimbursement of Expenses

6.1 Plaintiffs' State and Securities Law Settlement Class Counsel may submit an application or applications (the "Fee and Expense Application") for distributions to them from the Gross Settlement Fund and the Fund Distribution Account, for: (a) an award of attorneys' fees; plus (b) reimbursement of expenses incurred in connection with prosecuting the State Law Actions and the Securities Actions and not otherwise reimbursed from the Expense Fund; plus

(c) any interest on such attorneys' fees and expenses (until paid) at the same rate and for the same periods as earned by the Gross Settlement Fund, as appropriate, as may be awarded by the Court. Plaintiffs' State and Securities Law Settlement Class Counsel reserve the right to make additional applications for fees and expenses incurred from the Gross Settlement Fund and the Fund Distribution Account.

6.2 Plaintiffs' Insurance Settlement Class Counsel may, upon such further notice to the Insurance Subclass as may be required, submit an application or applications (the "Insurance Fee and Expense Application") for distributions to them from that portion of the Insurance Settlement Fund allocable to Insurance Subclass Members (as opposed to Individual Settling Insurance Plaintiffs) for: (a) an award of attorneys' fees; plus (b) reimbursement of expenses incurred in connection with prosecuting the Insurance Actions and not otherwise reimbursed from the Insurance Expense Fund; plus (c) any interest on such attorneys' fees and expenses (until paid) at the same rate and for the same periods as earned by the Gross Settlement Fund, as appropriate, as may be awarded by the Court. Plaintiffs' Insurance Settlement Class Counsel reserve the right to make additional applications for fees and expenses incurred from the Net Insurance Settlement Fund.

6.3 Any amounts that are awarded by the Court pursuant to ¶¶ 6.1 and 6.2, above (the "Fee and Expense Award") shall be paid to Plaintiffs' Settlement Class Counsel, to be allocated and distributed to Plaintiffs' Counsel as they deem fit, immediately after the Court executes an order (or orders) awarding such fees and expenses and permitting such distribution. In the event that the Effective Date does not occur, or the Judgment or the order making the Fee and Expense Award is reversed or modified, or the Stipulation is cancelled or terminated for any other reason, and in the event that the Fee and Expense Award has been paid to any extent, then Plaintiffs'

Settlement Class Counsel shall, within ten (10) business days after receiving notice from counsel for the Settling Defendants or from the Court, refund to the Settling Defendants, the amounts previously paid to such counsel. Unless paid sooner, the amount of such refund shall bear interest at the rate of 5% per annum from ten (10) business days after receipt of notice as provided in the preceding sentence until the entire amount due plus interest is remitted to the Settling Defendants. Plaintiffs' Settlement Class Counsel and Plaintiffs' Counsel, as a condition of receiving such fees and expenses, hereby agree that their respective law firms are each unconditionally obligated to make such refund of fees and expenses received by their respective law firms, plus any accrued interest, and are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

6.4 The procedure for, and the allowance or disallowance by the Court of, the Fee and Expense Application and the Insurance Fee and Expense Application are not part of the Settlement set forth in this Stipulation, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement. Any order or proceeding relating to the Fee and Expense Application or the Insurance Fee and Expense Application, or any appeal from any Fee and Expense Award or any other order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment and the Settlement of the Actions as set forth herein.

6.5 The Settling Defendants shall take no position on any matters relating to attorneys' fees or expenses sought by Plaintiffs' Settlement Class Counsel and shall have no responsibility for, and no liability whatsoever with respect to, any payments to Plaintiffs' Settlement Class Counsel pursuant to ¶¶ 6.1, 6.2 and 6.3 above, and/or to any other Person who

may assert some claim thereto, or any Fee and Expense Award that the Court may make in the Actions.

7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination

7.1 The Effective Date of the Settlement shall be conditioned on the occurrence of all of the following events:

(a) The Settling Defendants shall have timely transferred or caused to be timely transferred the Initial Settlement Amount to the Escrow Agent;

(b) The Settling Defendants no longer have any right under ¶ 7.3, below, to terminate the Stipulation or, if the Settling Defendants do have such right, they have given written notice to Plaintiffs' Settlement Counsel that they will not exercise such right;

(c) the Court has approved the Settlement as described herein, following notice to the Settlement Class and a hearing, as prescribed by Rules 23 and 23.1 of the Federal Rules of Civil Procedure, and has entered the Judgment; and

(d) the Judgment has become Final, as defined in ¶ 1.17 above.

7.2 Upon the occurrence of all of the events referenced in ¶ 7.1, above, any and all remaining interest or right of the Settling Defendants, other than the Settling Funds' rights if any in the Fund Distribution Account, in or to amounts contributed to the Gross Settlement Fund or the Insurance Settlement Fund or the Fund Distribution Account, if any, shall be absolutely and forever extinguished.

7.3 The Settling Defendants shall have the option to terminate the Settlement in its entirety in the event that Class Members who collectively invested net capital in the Settling Funds in excess of a specified amount choose to exclude themselves from the Settlement Class, as set forth in a separate agreement (the "Supplemental Agreement") executed among the Settling Parties.

7.4 Unless otherwise ordered by the Court, in the event that the Effective Date does not occur or the Stipulation should terminate, or be cancelled, or otherwise fail to become effective for any reason, including, without limitation, in the event that the Settlement is not approved by the Court or the Judgment is reversed or vacated following any appeal taken therefrom, then (a) within ten (10) business days after written notification of such event is sent by counsel for the Settling Defendants or by Plaintiffs' Settlement Counsel to the Escrow Agent and to the Insurance Escrow Agent, the Gross Settlement Fund, including the Initial Settlement Amount and all interest earned on the Gross Settlement Fund while held in escrow, less Notice and Administrative Costs that have either been properly disbursed or are due and owing pursuant to ¶ 3.1, and Taxes and Tax Expenses that have been paid or have accrued and will be payable at some later date, will be refunded, reimbursed, and repaid by the Escrow Agent and the Insurance Escrow Agent to the Settling Defendants; (b) at the written request of counsel for the Settling Defendants, the Escrow Agent and the Insurance Escrow Agent shall apply for any tax refund owed to the Gross Settlement Fund, the Insurance Settlement Fund and pay the proceeds to the Settling Defendants, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund, pursuant to such written request; (c) the Settling Parties shall be restored to their respective positions in the Actions as of March 17, 2010, with all of their respective claims and defenses, preserved as they existed on that date; (d) the terms and provisions of the Stipulation, with the exception of ¶¶ 6.3, 7.2-7.3, 8.1, 8.2, and 9.1 (which shall continue in full force and effect), shall be null and void and shall have no further force or effect with respect to the Settling Parties, and neither the existence nor the terms of this Stipulation (nor any negotiations preceding this Stipulation nor any acts performed pursuant to, or in furtherance of, this Stipulation) shall be used in the Actions or in any other action or proceeding for any

purpose (other than to enforce the terms remaining in effect); (e) any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*; and (f) the Settlement Class, if it has been certified, shall be decertified. No order of the Court or modification or reversal on appeal of any order of the Court concerning any Fee and Expense Award shall constitute grounds for cancellation or termination of the Stipulation.

8. No Admissions

8.1 The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between them with respect to the Actions and to compromise claims that are contested and shall not be deemed an admission by any Settling Party as to the merits or justiciability of any claim or defense or any allegation made in the Actions.

8.2 Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or justiciability of any Released Claim, of any allegation made in the Actions, or of any wrongdoing or liability of the Settling Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any liability, fault or omission of the Settling Defendants in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that the Settling Defendants may file and introduce as evidence the Stipulation and/or the Judgment in any action against their insurance carriers or in any action that may be brought against the Settling Defendants wherein they raise or assert a defense or counterclaim based on principles of *res judicata*,

collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

9. Miscellaneous Provisions

9.1 All agreements made and orders entered during the course of the Actions relating to the confidentiality of information shall survive the Stipulation.

9.2 The Settling Parties: (a) acknowledge that it is their intent to consummate the Settlement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

9.3 The Settling Defendants' obligations and responsibilities arising from, concerning, or in respect of the Settlement described herein, including, but not limited to, those respecting the Gross Settlement Fund, shall be those of the Settling Defendants exclusively, without any right of recourse of any kind against any other person or entity other than their insurers or each other.

9.4 Each Settling Defendant warrants, solely on its, his or her own behalf, that the payment of the Initial Settlement Amount to the Escrow Agent will not render it, him or her insolvent.

9.5 While the Settling Defendants deny that the claims advanced in the Actions were meritorious, the Settling Defendants will not assert in any statement to the Court that the Actions were not filed in good faith and/or are not being settled voluntarily after consultation with competent legal counsel. The Judgment will contain a statement that the Settling Parties do not contend that during the course of the Actions, the parties and their respective counsel at any time failed to act in good faith or comply with the requirements of Federal Rule of Civil Procedure 11.

9.6 The Settling Parties agree that the Gross Settlement Fund and the other terms of the Settlement as described herein were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

9.7 Nothing in this Stipulation shall prohibit any comment on the accuracy of any public description of the Settlement.

9.8 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

9.9 No provision of this Stipulation may be amended, modified or waived unless any amendment, modification or waiver is in writing and signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.10 The Stipulation, the Exhibits attached hereto, and the Supplemental Agreement constitute the entire agreement between Settling Plaintiffs and the Settling Defendants and no representations, warranties or inducements have been made to any party concerning the Stipulation or its Exhibits or the Supplemental Agreement other than the representations, warranties and covenants contained and memorialized in such documents. It is understood by the parties hereto that, except for the matters expressly represented herein, the facts or law with respect to which this Stipulation is entered into may turn out to be other than or different from the facts now known to each party or believed by such party to be true; each party therefore expressly assumes the risk of any such change of facts or law, and agrees that this Stipulation shall be in all respects effective and not subject to termination by reason of any such change. Except as otherwise provided herein, each party shall bear its own costs.

9.11 Plaintiffs' Settlement Counsel and Settling Plaintiffs represent and warrant that Plaintiffs' Settlement Counsel, on behalf of the Settlement Class and/or the Individual Settling

Insurance Plaintiffs, are expressly authorized by their respective plaintiffs to take all appropriate actions required or permitted to be taken by or on behalf of the Settlement Class, the Settling Funds and/or the Individual Settling Insurance Plaintiffs pursuant to the Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Settlement Class, the Settling Funds and/or the Individual Settling Insurance Plaintiffs that they deem appropriate.

9.12 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

9.13 The Stipulation may be executed by facsimile or email and in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the parties to the Stipulation shall exchange among themselves signed counterparts and a complete set of executed counterparts shall be filed with the Court.

9.14 The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto, including any corporation or other entity into or with which any party merges, consolidates or reorganizes.

9.15 Notices required or permitted by this Stipulation shall be submitted by overnight mail, electronic mail, or in person as follows:

Notices to Settling Plaintiffs or Plaintiffs' Settlement Counsel:

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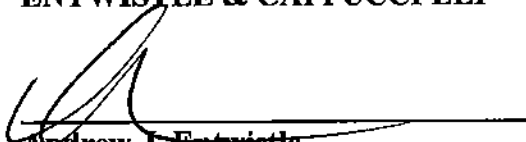
1095 Avenue of the Americas
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9.16 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation.

9.17 The Stipulation, the Exhibits hereto, and the Supplemental Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of New York, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of New York without giving effect to that State's choice of law principles.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys, dated as of February 25, 2011.

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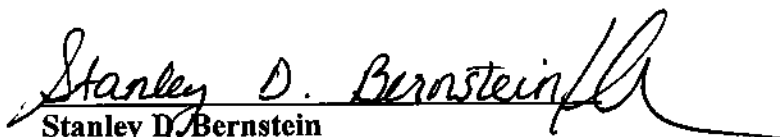


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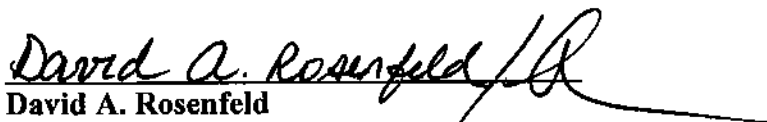
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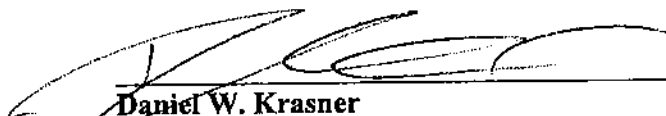
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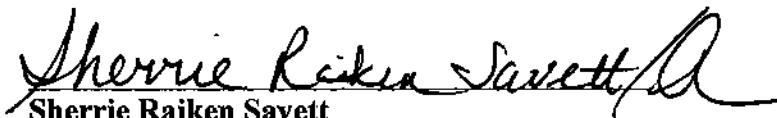


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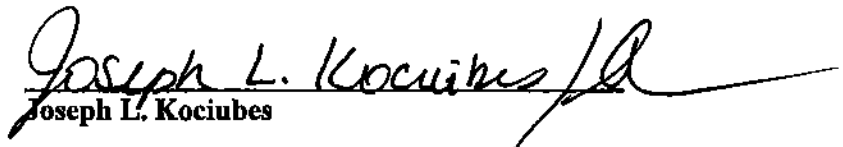
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