

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

**JOINT DECLARATION OF AVI JOSEFSON AND MATTHEW I. HENZI IN SUPPORT OF (I) SETTLING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION, AND (II) CO-LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

AVI JOSEFSON and MATTHEW I. HENZI hereby declare as follows:

1. I, Avi Josefson, am a partner of the law firm of Bernstein Litowitz Berger & Grossmann LLP, Co-Lead Counsel for the Class in the above-captioned action (the "Action").<sup>1</sup>

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<sup>1</sup> Unless otherwise defined herein, any capitalized terms shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement of Class Action dated July 25, 2016 (the "Stipulation") (Doc. 573-1), entered into by and among (i) Plaintiffs The Board of Trustees of the City of Pontiac Police & Fire Retirement System (the "Pontiac Police & Fire Board") and The Board of Trustees of the City of Pontiac General Employees Retirement System (the "Pontiac General Board") (collectively, the "Settling Plaintiffs"), on their own behalf and on behalf of the

2. I, Matthew I. Henzi, am a partner of the law firm of Sullivan, Ward, Asher & Patton, P.C., Co-Lead Counsel for the Class in the Action.

3. We each have personal knowledge of the matters set forth herein based on our participation in the prosecution and settlement of the Direct Lending claims asserted on behalf of the Class<sup>2</sup> in the Action.

4. We respectfully submit this Declaration in support of Settling Plaintiffs' motion, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, for final approval of the proposed settlement of the Action (the "Settlement"), which will resolve all remaining claims asserted in the Action, *i.e.*, the Direct Lending claims brought on behalf of the Class, and bring the Action to an end. The Court preliminarily approved the proposed Settlement by its Order dated September 9, 2016 (the "Preliminary Approval Order"). (Doc. 585.) This Declaration sets forth how Settling Plaintiffs and Co-Lead Counsel were able to achieve this favorable Settlement on behalf of the Class. We also respectfully submit this Declaration in support of (i) Settling Plaintiffs' motion for approval of the proposed plan for allocating the proceeds of the Settlement to Class Members (the

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Class, and (ii) defendants Northern Trust Investments, Inc. ("NTI") and The Northern Trust Company ("NTC") (collectively, "Northern Trust" or "Defendants").

<sup>2</sup> The Class, as certified by the Court for settlement purposes, consists of all entities that are not governed by ERISA (notwithstanding any incorporation of an ERISA standard of care or other ERISA standards into any such entity's applicable contracts with Northern Trust) and that directly invested or maintained investments or assets during the Class Period (*i.e.*, the period beginning September 14, 2008 through and including December 31, 2010) in any of the Core Pools. Excluded from the Class are: (i) Defendants and their successors, their respective officers and directors (former, current and future), members of the Immediate Families of the respective officers and directors (former, current and future), and the legal representatives, heirs, successors or assigns of any such excluded person, and any entity in which any Defendant has or had a controlling interest; (ii) any Commingled Lending Fund; and (iii) entities that exclude themselves by submitting a Request for Exclusion that is accepted by the Court. Stipulation ¶ 1(g); Preliminary Approval Order ¶ 1.

“Plan of Allocation”), and (ii) Co-Lead Counsel’s motion for an award of attorneys’ fees in the amount of 18% of the Settlement Fund and reimbursement of Litigation Expenses in the amount of \$330,611.92 (the “Fee and Expense Application”).<sup>3</sup>

5. The proposed Settlement now before the Court provides for the payment of Four Million Two Hundred and Fifty Thousand Dollars (\$4,250,000) in cash, plus interest earned thereon, for the benefit of the Class in resolution of the Direct Lending claims asserted on behalf of the Class Members in the Action. As detailed herein, Settling Plaintiffs and Co-Lead Counsel respectfully submit that the Settlement represents a very favorable result for the Class in light of the significant risks involved in pursuing the Direct Lending claims to a non-negotiated resolution. As explained further below, the Settlement provides a considerable benefit to the Class by conferring a substantial, certain and immediate recovery while avoiding the significant risks and expense of continued litigation of the Direct Lending claims, including the risk that the Class could recover less than the Settlement Amount (or nothing) with respect to the Direct Lending claims after years of additional litigation and delay.

6. The proposed Settlement is the result of extensive efforts by Co-Lead Counsel, which included, among other things detailed herein: (i) conducting a thorough investigation of the claims in the Action, including an in-depth analysis of Northern Trust’s securities lending program, documents filed in related actions, and public statements by Northern Trust employees regarding the subprime mortgage crisis; (ii) researching, drafting and filing the initial complaints and two amended complaints; (iii) opposing Defendants’ motion to dismiss and responding to third-party

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<sup>3</sup> In conjunction with this Declaration, Settling Plaintiffs and Co-Lead Counsel, respectively, are also submitting the Memorandum of Law in Support of Settling Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation (the “Settlement Memorandum”) and the Memorandum of Law in Support of Co-Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Fee Memorandum”).

complaints and affirmative defenses asserted by Defendants, all of which entailed extensive research and briefing; (iv) successfully briefing Settling Plaintiffs' motion for class certification; (v) conducting extensive discovery, which included the exchange of voluminous written discovery requests and responses, third party subpoenas, numerous discovery conferences, hearings and motions, the review and analysis of over 387,000 pages of documents produced by Defendants, the coordination of the Settling Plaintiffs' production of over 10,000 pages of documents in response to Defendants' discovery requests, and, in connection with class certification, deposing Defendants' expert witness and defending the depositions of two plaintiff expert witnesses; and (vi) engaging in a formal mediation presided over by Judge Wayne R. Andersen (Ret.), a retired United States District Judge for the Northern District of Illinois and a former state court trial judge, followed by additional extensive settlement negotiations which culminated in the parties' agreement-in-principle to settle all remaining claims in the Action. As a result of these extensive efforts, Settling Plaintiffs and Co-Lead Counsel are well informed of the strengths and weaknesses of the Direct Lending claims asserted in the Action, and they believe that the resolution of those claims on the terms and conditions set forth in the Stipulation represents a very favorable outcome for the Class.

7. As discussed in further detail below, the Plan of Allocation was developed with the assistance of Settling Plaintiffs' damages expert, and provides for the distribution of the net proceeds of the Settlement to Class Members based on their relative estimated losses experienced as a result of their participation in Northern Trusts' Direct Lending program. With respect to the Fee and Expense Application, as discussed in the Fee Memorandum, the requested fee is well within the range of percentage awards granted by courts in this Circuit in class actions. Additionally, the requested fee amounts to a *negative* multiplier of approximately 0.46 on Co-

Lead Counsel's "lodestar" (*i.e.*, Co-Lead Counsel's hourly rates multiplied by the number of hours spent on the litigation).<sup>4</sup>

8. For all of the reasons set forth herein and in the accompanying memoranda, Settling Plaintiffs and Co-Lead Counsel have concluded that the Settlement and the Plan of Allocation are "fair, reasonable and adequate" and are in the best interests of the Class. On that basis they recommend that the Settlement and the Plan of Allocation be approved by this Court. In addition, Co-Lead Counsel respectfully submit that their request for attorneys' fees and reimbursement of Litigation Expenses is also fair and reasonable, and should be approved.

## **I. PROSECUTION OF THE DIRECT LENDING CLAIMS**

### **A. Overview of the Direct Lending Claims**

9. Through Northern Trust's securities lending program, Northern Trust loaned securities to borrowers in exchange for cash collateral from the borrower. During the loan, the lender paid an interest rate on the cash collateral, known as the rebate rate. The cash collateral was invested by Northern Trust in collateral pools containing the commingled collateral of numerous investors participating in securities lending. The incremental investment income earned on the cash collateral in the collateral pools typically provided a modest profit over the rebate rate. Northern Trust was the investment manager for these collateral pools.

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<sup>4</sup> As described in ¶ 60 below, Co-Lead Counsel's total lodestar for this Fee Application includes time spent on the prosecution of the Direct Lending claims from January 14, 2014 (the day after the date of the agreement-in-principle to settle the prior, partial settlement of the Indirect Lending claims asserted in this Action) through and including July 25, 2016 (the date of execution of the Stipulation setting forth the terms and conditions of the Direct Lending settlement which resolves all remaining claims asserted in this case). Time billed to the prosecution of the Action prior to January 14, 2014, as well as time expended after that date on the settlement of the Indirect Lending claims, was submitted to the Court in connection with counsel's previous application for an award of attorneys' fees in connection with the Indirect Lending Settlement. No time previously submitted to the Court in connection with counsel's prior application is duplicated in this Fee Application.

10. For the members of the certified Class, all of which participated directly in Northern Trust's securities lending program, the collateral received from the lending of the investor's own securities was invested in one or more of the following investment pools: Core Collateral Section, Core USA Collateral Section, Global Core Collateral Section, and European Core Collateral Section, also referred to as Core, Core USA, Global Core, and European Core, respectively, along with any associated term loans or non-cash collateral (collectively, the "Core Pools").<sup>5</sup>

11. In securities lending, the party lending the security must return the cash with interest at the termination of the loan. Accordingly, the objective of securities lending investments must be to invest the cash collateral in a short-term, low-risk vehicle appropriate to generate returns sufficient to cover the required interest payment and generate a slight profit. Because the party lending the security is responsible for returning the collateral, preservation of capital is a primary objective, and the collateral pools needed to be conservative, short term funds intended to preserve capital and maintain liquidity.

12. Plaintiffs allege that, instead of investing the Core Pools in conservative, short-term investments, Defendants invested in risky, long-term securities backed by mortgages and other consumer loans, and billions more in securities issued by banks with massive exposure to mortgages and consumer loans, such as Lehman Brothers.

13. Plaintiffs allege that, as the Core Pools incurred mounting unrealized losses from mid-2007 through mid-2008, Northern Trust failed to mitigate the risks by divesting the pools of risky and long-term securities. Only after Lehman Brothers failed and realized losses were unavoidable did Northern Trust sell any securities.

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<sup>5</sup> Certain direct participants in the securities lending program, in particular entities subject to ERISA, are not members of the Class.

14. In September of 2008, the Core Pools incurred massive realized losses following the collapse of Lehman Brothers. Northern Trust then imposed withdrawal limitations on all investors that locked Class Members into the Core Pools even as additional losses mounted.

**B. Filing of the Initial Complaints**

15. On November 17, 2009, plaintiff Louisiana Firefighters' Retirement System ("Louisiana Firefighters") filed a putative class action complaint in this Court alleging that Defendants, among other things, imprudently invested collateral received to secure the loan of securities in connection with Northern Trust's securities lending program. That complaint asserted claims of breach of fiduciary duty, breach of contract, and breach of a duty of good faith and fair dealing against Defendants. Louisiana Firefighters was not engaged in direct lending through Northern Trust.

16. On January 29, 2010, the Public School Teachers' Pension and Retirement Fund of Chicago ("Chicago Teachers") and the City of Atlanta Firefighters' Pension Plan filed a separate putative class action (No. 10-cv-00619, N.D. Ill.), against NTI and NTC. That complaint alleged that Defendants, among other things, imprudently invested collateral received to secure the loan of securities in connection with Northern Trust's securities lending program, and it asserted claims for breach of fiduciary duty, breach of contract, and breach of a duty of good faith and fair dealing. Chicago Teachers engaged in direct lending through Northern Trust, but was not invested in the Core Pools through its direct lending activities. On October 22, 2010, that case was voluntarily dismissed without prejudice to the claims in the instant case.

17. On March 17, 2010, the Pontiac Police & Fire Board filed a separate putative class action (No. 10-cv-11083, E.D. Mich.), against NTI and NTC. On April 23, 2010, the Pontiac Police & Fire Board filed a Corrected Class Action Complaint, and on June 25, 2010, it filed a First Amended Class Action Complaint. Those complaints alleged that Defendants, among other

things, imprudently invested collateral received to secure the loan of securities in connection with Northern Trust's securities lending program, and they asserted claims for breach of duty of care based on ERISA § 404 (29 U.S.C. § 1104), breach of duty of care and duty of loyalty based on Mich. Comp. Laws § 38.1133, negligence, breach of contract, and breach of a duty of good faith and fair dealing. On December 9, 2010, that case was voluntarily dismissed without prejudice to the claims in the instant case. Collectively, all of the complaints referenced in this paragraph shall be referred to as the "Initial Complaints."

**C. The Amended Complaint and Defendants' Motion to Dismiss**

18. On July 16, 2010, plaintiffs Louisiana Firefighters, Chicago Teachers, the Pontiac Police & Fire Board, and the Pontiac General Board (jointly, "Plaintiffs") filed an Amended Class Action Complaint ("Amended Complaint") which alleged that Defendants, among other things, improperly invested collateral received to secure the loan of securities from the Commingled Lending Funds ("Indirect Lending") and/or collateral received to secure the loan of securities from the portfolio of a client that participated directly in Northern Trust's securities lending program ("Direct Lending") in the Core Pools and the Short Term Extendable Portfolio ("STEP"). The Amended Complaint also asserted claims for breach of fiduciary duty, breach of contract, and breach of a duty of good faith and fair dealing against Defendants. The allegations in the Amended Complaint were based on facts discovered as a result of the extensive investigation conducted by Co-Lead Counsel, which included an in-depth analysis of Northern Trust's securities lending program, documents filed in related actions, and public statements by Northern Trust employees regarding the subprime mortgage crisis.

19. On September 3, 2010, Defendants moved to dismiss the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. On the same day, Defendants moved to dismiss the claims of the Settling Plaintiffs



pursuant to Federal Rule of Civil Procedure 12(b)(1), asserting, among other things, that the Settling Plaintiffs suffered no loss from their Direct Lending activities as a result of the compensation provided by Defendants.

20. On October 12, 2010, Northern Trust withdrew its Rule 12(b)(1) motion to dismiss the claims of the Settling Plaintiffs without prejudice.

21. On May 6, 2011, the Court issued a Memorandum Opinion and Order that granted in part and denied in part Defendants' Rule 12(b)(6) motion to dismiss. (Doc. 71.) The Court held that the Plaintiffs' claim for breach of the duty of good faith and fair dealing was subsumed in the breach of contract claim under Illinois law and dismissed on that ground, but denied Defendants' motion to dismiss Plaintiffs' claims for breach of fiduciary duty and breach of contract arising from Defendants' imprudent management of the collateral pools.

**D. Defendants' Answer to the Amended Complaint and Third-Party Complaint**

22. On June 30, 2011, Defendants filed an answer to the Amended Complaint, and on July 14, 2011, Defendants filed an amended answer and affirmative defenses to the Amended Complaint; a counterclaim; and a third-party complaint. Defendants denied the claims asserted in the Amended Complaint; asserted multiple affirmative defenses; brought a third-party complaint asserting claims for contribution and indemnification against the Board of Trustees of Louisiana Firefighters, the Chicago Teachers Board, the Pontiac Police & Fire Board, and the Pontiac General Board in their individual capacities (collectively, the "Third-Party Defendants"), alleging that the Third-Party Defendants owed fiduciary duties to their respective plans and that they were fully informed about and accepted the risks associated with those investments; and brought a counterclaim for breach of contract against Chicago Teachers.

23. On September 26, 2011, the Third-Party Defendants moved to dismiss the third-party complaint, Chicago Teachers moved to dismiss the counterclaim, and Plaintiffs moved to

strike certain of the affirmative defenses. On February 23, 2012, the Court issued a Memorandum Opinion and Order that granted the Third-Party Defendants' motion to dismiss the third-party complaint, granted Chicago Teachers' motion to dismiss the counterclaim, and struck all affirmative defenses asserted in Defendants' answer.

**E. The Second Amended Complaint**

24. On March 29, 2012, Plaintiffs filed the Second Amended Class Action Complaint (the "Second Amended Complaint") alleging that Defendants, among other things, improperly invested collateral received to secure the loan of securities from the Commingled Lending Funds and/or collateral received to secure the loan of securities from the portfolio of a client that participated directly in Northern Trust's securities lending program.

25. On June 5, 2012, Defendants answered the Second Amended Complaint, denying the material allegations therein and denying any liability or wrongdoing. Defendants asserted multiple affirmative defenses, including that the Plaintiffs knowingly engaged in securities lending and knew and selected how collateral from such securities lending was invested; accepted, acquiesced in, and ratified the risks of securities lending; understood and accepted Northern Trust's securities lending fees; and did not suffer damages because Defendants' support actions (including voluntary cash payments of approximately \$150 million and securities lending fee reductions of approximately \$12 million in value) to investors in the Core Pools in which Settling Plaintiffs invested offset any losses incurred by participants in those Core Pools.

26. On July 24, 2012, Plaintiffs moved the Court for an order confirming that the May 6, 2011 Memorandum Opinion and Order that granted in part and denied in part Defendants' motion to dismiss the Amended Complaint did not dismiss Plaintiffs' breach of fiduciary duty claim that was based upon the securities lending fees charged by Defendants. On September 12,

2012, the Court issued an order clarifying that the breach of fiduciary duty claim regarding the lending fees had been dismissed and denying Plaintiffs' motion.

**F. Class Certification and Summary Judgment**

27. On June 8, 2015, the Settling Plaintiffs moved for class certification. The class as originally alleged when the Initial Complaints were filed included Direct Lending claims on behalf of non-ERISA entities invested in either STEP or one or more of the Core Pools (in addition to the Indirect Lending claims, which were settled and released before the Settling Plaintiffs moved for class certification). Following discovery, Settling Plaintiffs and Chicago Teachers determined that the proposed class should be limited to the Direct Lending claims of participants in the Core Pools. Accordingly, the Settling Plaintiffs moved to certify a class of Direct Lending investors in the Core Pools, and did not include in its class allegations the Direct Lending claims of investors in STEP, including the claims of the Chicago Teachers Board, which proceeded individually. Among other differences between the Class Members and the STEP investors, (i) investors in STEP did not receive any support payments from Northern Trust (in contrast to the \$150 million Northern Trust provided to investors in the Core Pools); (ii) investors in STEP did not receive any fee reduction (in contrast to the \$12 million of value in fee reductions received by the Settling Plaintiffs and Class Members); (iii) investors in STEP incurred greater losses, on a percentage basis, than the Core Pools; and (iv) STEP invested in (and incurred losses on) securities not held by the Core Pools.

28. On July 1, 2015, Defendants moved for summary judgment against the Settling Plaintiffs on the ground that the Settling Plaintiffs had no losses to redress and thus, their claims were moot. In support of that motion, Defendants principally contended that cash contributions and support payments in the approximate amount of \$150 million made by Northern Trust to Settling Plaintiffs and other participants in the Core Pools and Northern Trust's voluntary

reduction in the securities lending fees of the Settling Plaintiffs and Class Members, which Northern Trust valued at approximately \$12 million, offset all of the Settling Plaintiffs' losses (as well as those of other investors in the Core Pools who received the same benefits). According to Northern Trust, the Settling Plaintiffs actually benefited from the investment practices that are the subject of the Second Amended Complaint because of, among other things, the support payments and the fee reduction.

29. On July 13, 2015, the Settling Plaintiffs moved pursuant to Federal Rule of Civil Procedure 56(d) to hold in abeyance Defendants' motion for summary judgment pending further discovery, and to open merits discovery, which had been stayed pending class certification. In support of that motion, the Settling Plaintiffs principally contended that because the Court limited the discovery in this Action to focus on class certification issues and deferred discovery that was exclusively related to Defendants' affirmative defenses, the Settling Plaintiffs had not received sufficient discovery to present facts essential to respond to Defendants' motion for summary judgment. In opposition to that motion, Northern Trust argued, among other things, that Settling Plaintiffs had sufficient discovery and opportunities to take discovery in order to respond to its motion for summary judgment.

30. On September 8, 2015, the Court struck without prejudice Northern Trust's motion for summary judgment, denied the Settling Plaintiffs' request to open merits discovery, and struck as moot the Settling Plaintiffs' request to hold in abeyance Defendants' motion for summary judgment.

31. On December 21, 2015, the Court entered an Order certifying a class of investors in the Core Pools.

**G. Settling Plaintiffs' Extensive Discovery Efforts**

32. Discovery in the Action commenced in May 2011 with the required Rule 26 discovery conference. Beginning in July 2011, the parties served voluminous document production requests on each other. Discovery has been extensive. Over the course of the following five years, the parties engaged in numerous discovery conferences, hearings, and motions. In response to discovery requests, Defendants have produced, and Plaintiffs have reviewed, 373,588 pages of documents, which include documents and written discovery responses re-produced in this Action from *Diebold v. Northern Trust Investments, N.A.*, Civil Action No. 09-1934 (N.D. Ill.) (the "Diebold Action"), *BP Corp. N. Am. Inc. Savs. Plan Inv. Oversight Comm. v. N. Trust Invs.*, 08-cv-06029 (N.D. Ill.) (the "BP Action"), and *FedEx Corp. v. The Northern Trust Co.*, 08-cv-02827 (W.D. Tenn.) (the "FedEx Action"), and deposition transcripts and exhibits from *People of the State of Cal. v. N. Trust Corp., et al.*, No. BC478165 (Superior Court L.A. Cnty) (the "L.A. Action"). This discovery also included deposition transcripts of fact witnesses, expert reports, and deposition transcripts of expert witnesses. In addition, the Settling Plaintiffs have produced, and Defendants have reviewed, over 10,000 pages of documents in response to Defendants' discovery requests. In connection with class certification, Co-Lead Counsel deposed Defendants' expert witness, and Defendants deposed two expert witnesses proffered by Plaintiffs.

33. Following the Court's December 31, 2015 order certifying the class, on January 19, 2016, the Court adopted the parties' Joint Proposed Schedule for discovery, pursuant to which fact discovery was set to close on August 12, 2016. Thereafter, the parties engaged in further discovery. Defendants produced an additional 17,087 pages of documents, including nine transcripts of depositions, along with the accompanying deposition exhibits, of Northern Trust personnel, deposed in the L.A. Action. Settling Plaintiffs served, and Defendants responded to,

Plaintiffs' Second Set of Interrogatories to Defendants, and the parties began to schedule further depositions of Northern Trust fact witnesses.

34. On May 4, 2016, the Court granted Defendants' unopposed motion for extension of time to complete discovery, which provided for a 60-day extension to all of the deadlines in the discovery schedule and set October 11, 2016 as the deadline for the close of fact discovery. On June 7, 2016, the Court set a jury trial for March 20, 2017.

#### **H. The Settlement Negotiations and Proposed Settlement**

35. The parties first began discussing a potential resolution of the Direct Lending claims in the context of global settlement discussions conducted in 2013. On May 9, 2013, a mediation was conducted by Judge Morton Denlow (Ret.), a former United States Magistrate Judge for the United States District Court, Northern District of Illinois, but the parties were unable to reach a resolution at that time.

36. As a result of additional settlement negotiations, in early January 2014, the parties reached an agreement in principle to partially resolve this action with respect to the Indirect Lending claims (the "Indirect Lending Settlement"). The final terms and conditions of the Indirect Lending Settlement were set forth in the Stipulation and Agreement of Partial Settlement of Class Action executed on February 17, 2015 (Doc. 425-1). Following notice to the settlement class and a hearing, on August 5, 2015, the Court entered a Judgment on Stipulation and Agreement of Partial Settlement of Class Action (Doc. 500) finally approving the Indirect Lending Settlement and dismissing with prejudice the Indirect Lending claims asserted against Northern Trust in the Action.

37. Following the unsuccessful mediation held in May 2013, the parties continued to engage in off and on settlement discussions over the subsequent years in an effort to resolve the Direct Lending claims. On June 1, 2016, a second private mediation regarding the Direct Lending

claims was conducted by Judge Wayne R. Andersen (Ret.), a retired United States District Judge for the Northern District of Illinois and a former state court trial judge. *See* Declaration of Former U.S. District Court Judge Wayne R. Andersen in Support of Approval of Class Action Settlement, attached hereto as Exhibit 1 (the “Andersen Decl.”) ¶¶ 2-8. In connection with the mediation, the parties made extensive submissions to the mediator, which were exchanged with each other, regarding the strengths and weaknesses of their respective positions. *Id.* While the parties were unable to reach a resolution at the mediation, they continued to discuss resolving the Action thereafter, both through direct communications between counsel to the parties and through numerous discussions conducted through Judge Andersen, who remained closely involved in the negotiations. *Id.* ¶¶ 9-13. On June 30, 2016, the parties agreed in principle to settle all remaining claims in the Action—the Direct Lending claims—subject to the parties’ execution of a written settlement agreement. On July 25, 2016, the parties entered into the Stipulation, which sets forth the final terms and conditions of the Settlement.

38. On July 25, 2016, the Settling Plaintiffs filed their motion for preliminary approval of the proposed Settlement (the “Preliminary Approval Motion”) (Doc. 573), and on August 2, 2016, a hearing to consider the Preliminary Approval Motion was held before the Court. At that hearing, the Court requested briefing on certain issues raised in connection with the Preliminary Approval Motion; that additional briefing was submitted on August 23, 2016.<sup>6</sup> On September 9, 2016, the Court held a second hearing on the Preliminary Approval Motion. At the September 9

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<sup>6</sup> Specifically, at the August 2, 2016 hearing, the Court raised two issues concerning Settling Plaintiffs’ Preliminary Approval Motion: (i) the propriety of certifying the Class for settlement purposes after the Court granted Settling Plaintiffs’ previous motion for class certification; and (ii) the settling parties’ Supplemental Agreement regarding opt-outs from the Class, which was referenced in the Stipulation but was not provided to the Court. On August 23, 2016, Settling Plaintiffs’ filed their Supplemental Memorandum of Law addressing these issues (Doc. 577), and a copy of the Supplemental Agreement was submitted to the Court for in camera review.

hearing, the Court granted the Preliminary Approval Motion, and later that day entered the Preliminary Approval Order. (Doc. 585.) The Preliminary Approval Order, among other things, preliminarily approved the proposed Settlement, certified the Class for settlement purposes, set the date and time of the final approval hearing, established a plan for notice of the Settlement, and approved Garden City Group, LLC (“GCG”) as the Settlement Administrator.

## **II. RISKS OF CONTINUED LITIGATION OF THE DIRECT LENDING CLAIMS**

39. The Settlement provides an immediate and certain benefit to the Class in the form of a \$4,250,000 cash payment. Defendants asserted substantial defenses with respect to liability and damages relating to the Direct Lending claims. While Settling Plaintiffs believe that the Direct Lending claims asserted against Defendants are meritorious, they recognize that Defendants’ arguments created a significant risk that, after years of protracted litigation of those claims, Settling Plaintiffs and the Class could achieve no recovery at all, or a lesser recovery than the Settlement Amount, with respect to those claims.

40. Defendants have mounted a vigorous defense to Settling Plaintiffs’ claims at every stage of this litigation and have asserted multiple affirmative defenses set forth in 221 paragraphs spanning nearly 60 pages. (Doc. 167.) The asserted defenses blame Settling Plaintiffs for their securities lending losses and include, among other defenses, comparative fault, independent superseding cause, failure to mitigate, waiver, ratification, acquiescence, assumption of the risk and estoppel.

41. With respect to the central question of Defendants’ liability, *i.e.*, whether Northern Trust failed to prudently invest and manage the Core Pools, Defendants assert that the financial crisis of 2008 was unforeseeable and that the financial crisis, not Defendants’ allegedly imprudent investment decisions, was largely responsible for any losses the Class Members suffered. In particular, Defendants argued that the Core Pools’ loss—which in the aggregate comprised 0.01%



of the Core Pools—was principally a result of the default of Lehman Brothers’ securities following an unanticipated and unprecedented September 15, 2008 bankruptcy of Lehman Brothers. Further, Defendants assert that Defendants’ investment decisions were in accord with the investment guidelines set, and risks acceptable to, the Class Members when they elected to invest in the Core Pools. Additionally, if the Action were to continue with respect to the Direct Lending claims, Settling Plaintiffs would, among other things, run the risk of an adverse summary disposition of those claims before trial, as well as the risk of failing to prevail at trial, or if successful at trial, the risk of reversal on appeal from any such verdict.

42. Investors in the Core Pools, including the Class, also faced a unique risk that even in the event they established liability, they would be unable to prove damages. From the outset of the litigation, Northern Trust argued that it had taken extraordinary steps to compensate the participants in the Core Pools for their losses; treated investors in the Core Pools differently than other investors in the securities lending program, including investors in STEP; and taken numerous actions to compensate investors in the Core Pools for any losses or make them whole. For example, Northern Trust made \$150 million in support payments to investors in the Core Pools and provided those investors with substantial fee reductions, including \$12 million of value in fee reductions to the Settling Plaintiffs and Class Members. Northern Trust raised these arguments in their motion to dismiss the Settling Plaintiffs’ claims pursuant to Federal Rule of Civil Procedure 12(b)(1), in connection with their motion for summary judgment against the Settling Plaintiffs, and at class certification. While the Settling Plaintiffs were able to effectively prevent the dismissal of their claims, they did so based, in principal part, on grounds that additional discovery was needed in order for the parties and the Court to fully vet Defendants’ arguments. Finally, the Settling Plaintiffs faced a significant and unique risk that certain of the realized losses in the Core

Pools were not recoverable at all because such losses were “unallocated,” meaning that Class Members were not required to make out-of-pocket payments to cover such losses, and which losses were ultimately offset by increases in the market value of the Core Pools’ remaining assets and thus did not constitute compensable damages.

43. In addition, as discussed in detail in the briefing on the Preliminary Approval Motion, the parties had a material dispute regarding the scope of the class that the Court certified on December 31, 2015. *See L.A. Firefighters’ Ret. Sys. v. N. Trust Invs., N.A.*, 312 F.R.D. 501 (N.D. Ill. 2015). Specifically, Defendants have taken the position that the certified class is limited to investors whose contracts with Northern Trust contain Illinois or Michigan choice of law clauses. Defendants have argued that the Court’s reference to contracts “governed by the substantive law of Illinois or Michigan” in discussing claims for breach of contract (*See L.A. Firefighters’ Ret. Sys. v. N. Trust Invs., N.A.*, 312 F.R.D. at 509) establishes that the certified class excludes investors whose contracts with Northern Trust did not contain Illinois or Michigan choice of law clauses. Settling Plaintiffs, in contrast, believe that the class certified by the Court was not limited to investors in the Core Pools whose contracts with Northern Trust specify the application of Illinois or Michigan law, as Defendants contended during settlement negotiations. Settling Plaintiffs base their position on the Court’s conclusion that “[t]he plain language of the choice-of-law provision does not [] extend to plaintiff’s breach of fiduciary duty claim, which, under the Restatement’s most ‘significant relationship test,’ is governed by Illinois law.” *Id.* at 508. Accordingly, in the absence of the Settlement, the Class faced a risk that Defendants would succeed in arguing for a more limited class, thereby excluding some Class Members from any recovery.

44. Finally, if the Settling Plaintiffs continued to prosecute this Action with respect to the Direct Lending claims, they would face the risk of a potential adverse summary disposition of those claims before trial, as well as the risk of failing to prevail at trial, or if successful at trial, the risk of reversal on appeal from any such verdict. Settling Plaintiffs also faced a risk that they might succeed in proving the merits of their claims, but fail to establish material damages suffered by the Class. Although Settling Plaintiffs and their counsel believe that their claims are meritorious and that they would prevail in this action if it were pursued, the arguments made and defenses asserted by Defendants are substantial, and the risk of an adverse ruling at some stage of the proceedings is not insignificant. Accordingly, Settling Plaintiffs and their counsel believe that the compromise represented by the Settlement is justified and that the Settlement is a fair and reasonable resolution of the Direct Lending claims in this Action for members of the Class.

45. In light of the risks involved in proceeding to trial and the substantial time and resources that would be expended in continuing to prosecute this case to an adjudicated resolution, Settling Plaintiffs and their counsel believe the \$4,250,000 Settlement represents a favorable outcome for members of the Class. Among other things, the Settlement will avoid the cost and expense of continuing the litigation and will achieve immediate relief for members of the Class. Furthermore, the Settlement has the full support of the mediator, Judge Andersen, who based on his experience as a former judge and mediator, believes that the Settlement is “the greatest recovery the Class could secure at this stage of the proceedings, without undertaking the cost and substantial risk of further litigation.” *See Andersen Decl.* ¶ 14.

**III. SETTling PLAINTIFFS' COMPLIANCE WITH THE COURT'S PRELIMINARY APPROVAL ORDER REQUIRING ISSUANCE OF NOTICE**

46. The Court's Preliminary Approval Order directed that the Notice of (i) Certification of Class and Proposed Settlement of Class Action; (ii) Settlement Hearing; and (iii) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Settlement Notice") be mailed to all Class Members identified by Defendants based on their client records. The Settlement Notice informs Class Members of the nature of the Action, the definition of the Class, the basic terms of the Settlement (including the relief provided and the scope of the release), the proposed Plan of Allocation of the Net Settlement Fund, the binding nature of the Settlement on Class Members, and the intent of Co-Lead Counsel to seek an award of attorneys' fees and reimbursement of Litigation Expenses. The Settlement Notice also describes the procedures for requesting exclusion from the Class or objecting to the Settlement, the Plan of Allocation and/or the Fee and Expense Application, and states the date, time and place of the Settlement Hearing. Pursuant to the Preliminary Approval Order, the Settlement Hearing has been scheduled for January 11, 2017, and the deadline for submitting an objection or requesting exclusion is December 21, 2016.

47. Pursuant to the Preliminary Approval Order, prior to the mailing of the Settlement Notice, Defendants were required to mail a "Banking Notice" to all identified Class Members advising them of the proposed Settlement and, that, in order for them to be eligible to participate in the distribution of the Settlement proceeds, identifying information as well as certain investment data relating to them had to be provided to the Settlement Administrator (and may be provided to Co-Lead Counsel). Pursuant to the Preliminary Approval Order, the Banking Notice advised Class Members that their information would be provided to the Settlement Administrator, unless the Class Member instructed Northern Trust not to provide the information, in which event such Class

Member would not be eligible to participate in the distribution of the Net Settlement Fund. Co-Lead Counsel and the Settlement Administrator were made aware that, in response to the Banking Notice, Defendants did not receive any instructions from Class Members to withhold their information.

48. On October 18, 2016, Defendants provided the Settlement Administrator with a file containing the contact information and investment data for the Class Members identified by Defendants. *See* ¶ 3 of the Declaration of Jose Fraga Regarding (A) Mailing of the Settlement Notice Packet; (B) Publication of the Summary Notice; and (C) Report on Challenges and Requests for Exclusion Received to Date, submitted by the Court-approved Settlement Administrator, GCG (the “GCG Decl.”), attached hereto as Exhibit 2.

49. Pursuant to the terms of the Stipulation and the Preliminary Approval Order, using the information received from Defendants, the Settlement Administrator mailed a copy of the Settlement Notice and a personalized “Cover Letter” (collectively, the “Settlement Notice Packet”) to identified Class Members on November 7, 2016.<sup>7</sup> *See* GCG Decl. ¶ 4. The personalized Cover Letter set forth the amount of the Class Member’s investment in each of the Core Pools in which it was invested as of each of the “Relevant Dates” that form the basis for calculating the Class Member’s proportionate share of the Settlement proceeds under proposed Plan of Allocation (*See* Section V, below). Class Members were advised in the Settlement Notice Packets that if they

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<sup>7</sup> After the mailing of the Settlement Notice, Northern Trust determined that it had incorrectly identified three entities as members of the Class, which required a modification to the Total Class Member Holdings in Core USA set forth in Table A to the mailed Settlement Notice. An updated version of the Settlement Notice with the modified Core USA Class Member Holdings has been posted to the Settlement website. *See* GCG Decl. ¶ 4, n. 3. Defendants’ Counsel have advised Co-Lead Counsel that Northern Trust has notified each of the incorrectly identified entities in writing that the Settlement Notice was sent to them in error and that they are not eligible under the terms of the proposed Settlement to receive a distribution from the Settlement proceeds, if the Settlement is approved by the Court.

agreed with the information set forth in the Cover Letter, they need not take any further action to be eligible to receive a distribution. However, if a Class Member took issue with the data included in the Cover Letter, it was required to submit an “Investment Challenge” to contest the accuracy of the data. Pursuant to the Preliminary Approval Order, Investment Challenges were to be mailed to the Settlement Administrator, postmarked no later than December 9, 2016, in accordance with the instructions set forth in the Settlement Notice Packet. Through December 6, 2016, no Investment Challenges have been received by the Settlement Administrator. *Id.* ¶ 9.

50. Pursuant to the Preliminary Approval Order, the Settlement Administrator also caused the Summary Notice of (i) Certification of Class and Proposed Settlement of Class Action; (ii) Settlement Hearing; and (iii) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Summary Notice”) be published once in *The Wall Street Journal* and to be transmitted once over the *PR Newswire* on November 22, 2016. *See* GCG Decl. ¶ 6. Among other things, the Summary Notice advised entities that did not receive the Settlement Notice by direct mail (*i.e.*, they were not identified by Defendants as Class Members) that, if they believed that they met the definition of the Class, they had the right to make a written “Status Challenge,” which, if successful, would put them in parity with the Class Members identified by Defendants. In accordance with the Preliminary Approval Order, the Summary Notice advised that Status Challenges were to be mailed to the Settlement Administrator, postmarked no later than December 23, 2016. Through December 6, 2016, no Status Challenges have been received by the Settlement Administrator. *Id.* ¶ 10.

51. In connection with the Indirect Lending Settlement, GCG established a dedicated settlement website for the Action, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com). The settlement website has been updated to provide Class Members with information specific to this Settlement, and

copies of the settlement documents related to the Settlement have been posted to the website. *See* GCG Decl. ¶ 7. The Settlement Administrator also established a toll-free telephone number to accommodate Class Members and others who have questions about the Settlement. *Id.* ¶ 8. Co-Lead Counsel have also spoken directly to Class Members that contacted Co-Lead Counsel with questions regarding the Settlement.

52. As set forth above, the deadline for Class Members to file objections to the Settlement, the Plan of Allocation and/or the Fee and Expense Application, or to request exclusion from the Class, is December 21, 2016. To date, no requests for exclusion have been received (*see* GCG Decl. ¶ 11); and no objections to the Settlement, the Plan of Allocation or the Fee and Expense Application have been received. Co-Lead Counsel will file reply papers on January 4, 2017 that will address any requests for exclusion and objections that may be received. Also, to the extent any Investment or Status Challenges are received after the date of this submission, they will be addressed in the reply papers filed on January 4, 2017.

#### **IV. ALLOCATION OF THE PROCEEDS OF THE SETTLEMENT**

53. The Plan of Allocation proposed by Settling Plaintiffs is set forth in Appendix 1 to the Settlement Notice. *See* GCG Decl. Ex. A, Settlement Notice, at pp. 11-14 (Appendix 1). The objective of the Plan of Allocation is to provide a fair and reasonable method for allocation of the Net Settlement Fund among Class Members based on their relative estimated losses experienced as a result of their participation in Northern Trusts' Direct Lending program. As noted in the Settlement Notice, the Plan of Allocation is not intended to provide estimates of, nor be indicative of, the amounts that Class Members might have been able to recover after a trial.

54. As set forth in the Settlement Notice, the Plan of Allocation is based on the estimated losses incurred in the Core Pools on or about certain "Relative Dates" and the relative risks associated with establishing damages for the Core Pools on those dates. Specifically, under

the proposed Plan of Allocation, the Net Settlement Fund will be allocated among Class Members based on the relative estimated losses realized by each of the Core Pools on or about the Relevant Dates and the relative investment of each Class Member in each of the Core Pools on the Relevant Dates as compared to the total value of all Class Members' holdings in the respective Core Pools on the Relevant Dates.

55. In sum, the Plan of Allocation was designed to fairly and rationally distribute the Settlement proceeds to Class Members in proportion to relative losses. Accordingly, Co-Lead Counsel respectfully submit that the Plan of Allocation is fair and reasonable and should be approved by the Court.

56. Also, as noted above, the Settlement Notice has been mailed to identified Class Members advising them of their right to object to the proposed Plan of Allocation. *See* GCG Decl. ¶ 4. To date, no objections to the proposed Plan of Allocation have been received.

## **V. THE FEE AND LITIGATION EXPENSE APPLICATION**

57. In addition to seeking final approval of the Settlement and Plan of Allocation, Co-Lead Counsel are applying to the Court for an award of attorneys' fees of 18% of the Settlement Fund. Co-Lead Counsel also seek reimbursement of Litigation Expenses in the amount of \$330,611.92. The legal authorities supporting the requested fee and expenses are set forth in Co-Lead Counsel's Fee Memorandum. The primary factual bases for the requested fees and expenses are summarized below.

### **A. The Fee Application**

58. For their efforts on behalf of the Class, Co-Lead Counsel are applying for a fee award to be paid from the Settlement Fund on a percentage basis. As set forth in the accompanying Fee Memorandum, the Seventh Circuit has strongly endorsed the percentage method because it



most closely approximates the manner in which attorneys are compensated in the marketplace for contingent work.

59. Based on the quality of the result achieved, the extent and quality of the work performed, the significant risks of the litigation and the fully contingent nature of the representation, Co-Lead Counsel respectfully submit that the requested fee award is reasonable and should be approved. As discussed in the Fee Memorandum, a 18% fee award is fair and reasonable for attorneys' fees in common fund cases such as this and is plainly consistent with – if not significantly below – fee awards made by courts in this Circuit in similar cases.

**1. The Work and Experience of Counsel**

60. Attached hereto as Exhibits 5A and 5B are declarations from Co-Lead Counsel in support of the request for an award of attorneys' fees and reimbursement of Litigation Expenses. Included with Co-Lead Counsel's declarations are schedules that summarize the lodestar of the firm. The attached declarations and the fee schedules indicate the amount of time spent by each attorney and paraprofessional employed by Co-Lead Counsel who, from January 14, 2014 through and including July 25, 2016 (the date of execution of the Stipulation), billed ten or more hours to the prosecution of the Direct Lending claims, and a lodestar calculation for those individuals based on their current billing rates.<sup>8</sup> Time billed to the prosecution of the Action prior to January 14, 2014—the day after the date of the agreement-in-principle to settle the previous, partial settlement of the Indirect Lending claims asserted in this Action—as well as time expended after that date in connection with the settlement of the Indirect Lending claims, was submitted to the Court in

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<sup>8</sup> As set forth therein, the declarations submitted by Co-Lead Counsel were prepared from contemporaneous daily time records regularly prepared and maintained by the respective firms, which are available at the request of the Court. Also, time spent preparing the fee and expense application has been excluded from each firm's lodestar report.

connection with counsel's July 2015 application for an award of attorneys' fees in connection with the Indirect Lending Settlement. No time previously submitted to the Court in connection with counsel's prior application is duplicated in this Fee Application.

61. As set forth in the declarations attached hereto in Exhibit 5, Co-Lead Counsel have collectively expended 3,167.05 hours on the prosecution of the Direct Lending claims from January 14, 2014 through and including July 25, 2016. The resulting lodestar is \$1,665,418.75.<sup>9</sup> Under the lodestar approach, the requested fee equal to 18% of the Settlement Fund (approximately \$765,000) therefore represents a "negative" multiplier of approximately 0.46 on Co-Lead Counsel's lodestar.<sup>10</sup> As discussed in further detail in the Fee Memorandum, courts regularly apply risk multipliers between 2.0 and 4.0 in complex class actions involving significant contingency fee risk, and the fact that the requested fees here are significantly below the amount of class counsel's total lodestar provides strong support for the reasonableness of the Fee Application.

62. Co-Lead Counsel are experienced in prosecuting complex class actions, and worked diligently and efficiently in prosecuting the Action. As demonstrated by their firm resumes attached to their respective declarations, Co-Lead Counsel are among the most experienced and skilled firms in the class action field, and each firm has a long and successful track record in such cases.

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<sup>9</sup> Since the date of execution of the Stipulation (July 25, 2016), Co-Lead Counsel have expended nearly 200 additional hours on this matter, with a resulting lodestar of approximately \$100,000, which are not included in this Fee Application.

<sup>10</sup> In connection with the prior settlement, counsel were awarded 22% of the \$24,000,000 settlement fund, or \$5,280,000 (plus interest), which represented a negative multiplier of approximately 0.35 on counsel's total lodestar of \$14,882,632.90. When combined with this Fee Application, which seeks an award of \$765,000 (plus interest) based on counsel's \$1,665,418.75 total lodestar, the total award of \$6,045,000 (plus interest) on the combined \$16,548,051.65 total lodestar represents an overall negative multiplier of approximately 0.37.

## **2. Standing and Caliber of Defendants' Counsel**

63. The quality of the work performed by Co-Lead Counsel in attaining the Settlement should also be evaluated in light of the quality of the opposition. Here, Defendants were represented by Jenner & Block LLP, Winston & Strawn LLP and Mayer Brown LLP, three of the country's most prestigious and experienced defense firms, which vigorously represented their clients. In the face of this experienced, formidable, and well-financed opposition, Co-Lead Counsel were nonetheless able to persuade Defendants to settle the Direct Lending claims at issue in the Action on terms favorable to the Class.

## **3. The Risks of Litigation and the Need to Ensure the Availability of Competent Counsel in High-Risk Contingent Class Actions**

64. The prosecution of the Direct Lending claims was undertaken by Co-Lead Counsel entirely on a contingent-fee basis. The risks assumed by Co-Lead Counsel in bringing these claims to a successful conclusion are described above. Those risks are also relevant to an award of attorneys' fees. Here, the risks assumed by Co-Lead Counsel, and the time and expenses incurred without any payment, were substantial, and are described in detail above.

65. From the outset, Co-Lead Counsel understood that they were embarking on a complex, expensive and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and money the case would require. In undertaking that responsibility, Co-Lead Counsel were obligated to ensure that sufficient resources were dedicated to the prosecution of the Action, and that funds were available to compensate staff and to cover the considerable litigation costs that a case such as this requires. With an average lag time of several years for these cases to conclude, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis.

66. Co-Lead Counsel also bore the risk that no recovery would be achieved. As discussed herein, from the outset, this case presented multiple risks and uncertainties that could have prevented any recovery whatsoever with respect to the Direct Lending claims. Despite the most vigorous and competent of efforts, success in contingent-fee litigation, such as this, is never assured.

67. Co-Lead Counsel know from experience that the commencement of a class action does not guarantee a settlement. To the contrary, it takes hard work and diligence by skilled counsel to develop the facts and theories that are needed to sustain a complaint or win at trial, or to induce sophisticated defendants to engage in serious settlement negotiations at meaningful levels.

68. The extensive and persistent efforts of Co-Lead Counsel in the face of substantial risks and uncertainties have resulted in a significant recovery for the benefit of the Class with respect to the Direct Lending claims. In circumstances such as these, and in consideration of the hard work and the result achieved, the requested fee is reasonable and should be approved.

#### **4. The Approval of Settling Plaintiffs Supports the Fee Application**

69. Settling Plaintiffs are sophisticated institutional investors who were actively involved in the prosecution and settlement of the Direct Lending claims and have supervised the work of counsel. Each of the Settling Plaintiffs has evaluated the Fee Application and believes it to be reasonable. As set forth in the declarations submitted by the Settling Plaintiffs, each of the Settling Plaintiffs has concluded that counsel have earned the requested fee based on the work performed and the substantial recovery obtained for the Class. *See* Declaration of Chuck Wytrychowski, Plan Manager of the City of Pontiac Police and Fire Retirement System (the “Wytrychowski Decl.”), attached hereto as Exhibit 3, at ¶ 5; Declaration of Walter Moore, Chairman of the City of Pontiac General Employees Retirement System (the “Moore Decl.”),

attached hereto as Exhibit 4, at ¶ 5. Accordingly, Settling Plaintiffs' endorsement of Co-Lead Counsel's fee request further demonstrates its reasonableness and should be given weight in the Court's consideration of the fee award.

**5. The Reaction of the Class Supports the Fee Application**

70. In accordance with the Preliminary Approval Order, the Settlement Notice has been mailed to Class Members advising them that Co-Lead Counsel would apply for an award of attorneys' fees in an amount not to exceed 18% of the Settlement Fund. *See* GCG Decl. ¶ 4. While the deadline set by the Court for Class Members to object to the fee request has not yet passed, to date, no objections have been received. Should any objections be received, they will be addressed in Co-Lead Counsel's reply papers.

71. In sum, Co-Lead Counsel accepted this case on a contingency basis, committed significant resources to it, and prosecuted it without any compensation or guarantee of success. Based on the favorable result obtained in exchange for the settlement of the Direct Lending claims, the quality of the work performed, the risks of prosecuting the Direct Lending claims, and the contingent nature of the representation, Co-Lead Counsel respectfully submit that a fee award of 18%, resulting in a negative lodestar multiplier of approximately 0.46, is fair and reasonable, and is supported by the fee awards courts have granted in other comparable cases.

**B. The Litigation Expense Application**

72. Co-Lead Counsel also seek reimbursement from the Settlement Fund of \$330,611.92 in Litigation Expenses that were reasonably and actually incurred by Co-Lead Counsel in connection with the prosecution of the Direct Lending claims in the Action.

73. From the beginning of the case, Co-Lead Counsel were aware that they might not recover any of their expenses, and, at the very least, would not recover anything until the Action was successfully resolved. Co-Lead Counsel also understood that, even assuming that the case

was ultimately successful, reimbursement for expenses would not compensate counsel for the lost use of the funds advanced to prosecute the Action. Thus, Co-Lead Counsel was motivated to, and did, take significant steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of the case.

74. Co-Lead Counsel have incurred \$330,611.92 in unreimbursed Litigation Expenses in connection with the prosecution of the Direct Lending claims in this Action from January 14, 2014 through and including November 30, 2016. These expenses are reflected on the books and records maintained by Co-Lead Counsel, which are prepared from expense vouchers, check records and other source materials, and provide an accurate accounting of the expenses incurred in this matter. These expense items are billed separately by Co-Lead Counsel, and such charges are not duplicated in the firms' hourly billing rates.

75. The expenses for which Co-Lead Counsel seek reimbursement are the types of expenses that are necessarily incurred in litigation and routinely charged to clients billed by the hour. These expenses include, among others, charges for expert witnesses, on-line legal and factual research, electronic document management costs, costs of out-of-town travel, copying costs, long distance telephone charges, and postage and delivery expenses. Co-Lead Counsel also seek reimbursement for expenses incurred in connection with the mediation conducted by Judge Andersen. All of the litigation expenses incurred by Co-Lead Counsel were reasonably necessary to the successful litigation of the Direct Lending claims, and have been approved by the Settling Plaintiffs. *See* Wytrychowski Decl. ¶ 5; Moore Decl. ¶ 5.

76. The Settling Notice informed Class Members that Co-Lead Counsel would be seeking reimbursement of Litigation Expenses in an amount not to exceed \$400,000. The total amount requested, \$330,611.92, is less than the \$400,000 that Class Members were advised could be sought and, to date, no objection has been raised as to the maximum amount of expenses set forth in the Settling Notice.

77. The expenses incurred by Co-Lead Counsel were reasonable and necessary to represent the Class and achieve the Settlement. Accordingly, Co-Lead Counsel respectfully submit that the Litigation Expenses should be reimbursed in full from the Settlement Fund.

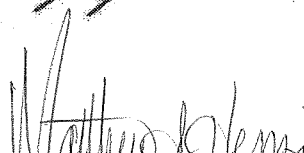
## VI. CONCLUSION

78. For all the reasons set forth above, Settling Plaintiffs and Co-Lead Counsel respectfully recommend to the Court that the Settlement and the Plan of Allocation be approved as fair, reasonable and adequate. Co-Lead Counsel further submit that the requested fee in the amount of 18% of the Settlement Fund should be approved as fair and reasonable, and the request for reimbursement of Litigation Expenses should also be approved.

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 7th day of December, 2016.

By:   
Avi Josefson

By:   
Matthew I. Henzi

# **EXHIBIT 1**



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and  
THE NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Honorable Jorge L. Alonso

**CLASS ACTION**

**DECLARATION OF FORMER U.S. DISTRICT COURT JUDGE WAYNE R.  
ANDERSEN IN SUPPORT OF APPROVAL OF CLASS ACTION SETTLEMENT**

I, WAYNE R. ANDERSEN, declare as follows:

1. I am filing this Declaration in my capacity as the mediator in connection with the proposed settlement of the above-captioned class action (the "Class Action").

**I. BACKGROUND AND QUALIFICATIONS**

2. I am a former U.S. District Judge for the Northern District of Illinois and a former state court trial judge. I currently serve as a mediator with JAMS, based in Chicago, Illinois. I have conducted thousands of mediations (including settlement conferences) during my service as a mediator and as a member of both the federal and state judiciary. I have also personally presided over the trials of hundreds of cases as a federal and state court trial judge.

## **II. THE ARM'S-LENGTH SETTLEMENT NEGOTIATIONS**

### **A. The June 1, 2016 Mediation**

3. I was asked by the parties to mediate the Class Action, together with certain related individual litigation, in March 2016. I directed each of the parties to provide me with substantive mediation statements and background materials in advance of a June 1 mediation so that I could independently analyze the strengths and weaknesses of the claims at issue. Pursuant to my direction, the parties submitted and exchanged detailed, 35-page mediation statements with supporting exhibits.

4. The Class Action was discussed in each of the parties' mediation statements, including extensive substantive analyses and information relevant to strengths and weaknesses of these claims. I found these factual discussions and analyses to be extremely valuable in helping me to understand the relative merits of each party's positions, and to identify the issues that were likely to serve as the primary drivers and obstacles to achieving a settlement. Because the parties submitted their mediation statements and arguments in the context of a confidential mediation process pursuant to Federal Rule of Evidence 408, I cannot reveal their content. I can say however the arguments and positions asserted by all involved were the product of much hard work, and they were complex and highly adversarial.

5. In connection with the mediation process, counsel for the parties also submitted certain briefing in the Class Action, including the parties' submissions in connection with class certification, along with certain other submissions that addressed the merits of the Class claims. I also reviewed the Court's opinions in this case and the related cases. I found the Court's opinions especially instructive, and found the parties' submissions very useful in understanding the arguments and positions asserted by the parties. In particular, counsel for Defendants

asserted numerous arguments about the merits of the Class claim and the ability of the members of the Class to prove any damages. Significantly, Defendants contended that Northern Trust made support payments and other concessions to the Class that completely offset any losses the Class had incurred, including a cash contribution of \$150 million to investors in the securities lending pools in which the Class invested (the “Core Pools”) and a fee reduction. In sum, Defendants presented reasonable arguments that even if Plaintiffs could prove Defendants’ liability at trial, many or all Class members stood to recover nothing on their claims. In addition, Defendants argued that the losses experienced by the Core Pools were in large measure limited to declines or defaults of a handful of discrete securities, including in particular, to the unforeseeable bankruptcy of Lehman Brothers during the most significant financial crisis in recent history and were not due to any imprudence or negligence on behalf of Northern Trust. While I understand that Plaintiffs have responses to certain of Defendants’ arguments, the risk of non-recovery was a significant factor in the parties’ settlement negotiations.

6. After reviewing all of the written mediation statements and prior briefing, I believed that the mediation would be a difficult and adversarial process, and that a resolution without further litigation was by no means certain.

7. With these issues and many others in mind, we held an in-person mediation session in June 1, 2016 in Chicago, whose attendees included counsel for both Plaintiffs (Bernstein Litowitz Berger & Grossmann LLP) and Defendants (Jenner & Block LLP and Winston & Strawn LLP). Over the course of the full-day mediation, I engaged in extensive discussions with counsel for both sides in an effort to find common ground between the parties’ positions. These discussions were driven in significant part by Defendants’ arguments and supporting evidence concerning risk of non-recovery to the Class, among the numerous other

arguments presented by Defendants. In addition, the parties exchanged several rounds of settlement demands and offers.

8. By the end of the day on June 1, it was apparent to me and the parties that an amicable resolution of the Class Action would not be reached at that time. Accordingly, we ended the June 1, 2016 mediation session without a settlement.

### **B. Continued Negotiations**

9. Following the initial June 1 mediation session, the parties continued to engage in communications by phone and by email in an ongoing effort to resolve the dispute, while the parties continued the litigation. These included direct negotiations between counsel and numerous communications between counsel and myself, including a lengthy in-person meeting I held to address matters of concern to one of the parties.

10. During a status conference on June 7, 2016, the parties notified the Court that the mediation was unsuccessful but that negotiations were ongoing, and I am informed the Court scheduled a jury trial for March 20, 2017.

11. As a result of the parties' ongoing efforts, the parties were able to move closer towards a resolution. In an effort to narrow the wide divergence between the parties' respective positions on settlement, I made certain recommendations which successfully narrowed the gap somewhat. But a final resolution still remained out of reach.

### **C. The Settlement**

12. On June 27, 2016, after even more negotiations and a significant amount of hard work by both parties, including extensive discussions regarding the merits of each party's positions, the discussions had reached a point where I felt that I could and did make a further

mediator's recommendation. On June 30, 2016, I was pleased to announce that, in response to my final recommendation, the parties reached an agreement in principle to settle.

13. As discussed herein, it was an extremely hard-fought and difficult negotiation. I cannot delve into the specifics regarding each party's positions and thinking due to the fact that many discussions occurred during confidential mediation sessions. However, I can say that, as noted above, there were many complex issues that required complex thought and solutions. I can also attest that the negotiations were vigorous, fully at arm's-length and conducted in good faith, with no collusion whatsoever.

14. Based on my experience as a former judge and mediator, I believe this settlement represents a recovery and outcome that is reasonable and fair for the Class, and that this was the greatest recovery the Class could secure at this stage of the proceedings, without undertaking the cost and substantial risk of further litigation. I further believe it was in the best interests of all of the parties that they avoid the burdens and risks associated with taking a case of this complexity to trial, and that they agree upon the settlement now before the Court. In sum, I strongly support the approval of the Settlement in all respects.

15. Lastly, the advocacy on both sides was outstanding. The advocacy from counsel representing Plaintiffs (from the law firm of Bernstein Litowitz Berger & Grossmann LLP) and Defendants (from the Jenner & Block LLP and Winston & Strawn LLP firms) was of the highest caliber and they exhibited enormous effort, creativity and zeal in their work. All counsel displayed the highest level of professionalism in carrying out their duties on behalf of their respective clients. The settlement is a direct result of all counsel's experience and ability in these types of cases.

Dated: July 25, 2016

A handwritten signature in blue ink, appearing to read "Wayne R. Andersen", written over a horizontal line.

Wayne R. Andersen

## **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

**DECLARATION OF JOSE FRAGA REGARDING  
(A) MAILING OF THE SETTLEMENT NOTICE PACKET;  
(B) PUBLICATION OF THE SUMMARY NOTICE; AND (C) REPORT ON  
CHALLENGES AND REQUESTS FOR EXCLUSION RECEIVED TO DATE**

I, Jose Fraga, declare as follows:

1. I am a Senior Director of Operations for Garden City Group, LLC ("GCG"). Pursuant to the Court's Preliminary Approval Order dated September 9, 2016 (Doc. No. 585), GCG was authorized to act as the Settlement Administrator in connection with the settlement of the remaining claims asserted in the above-captioned action (the "Action"), *i.e.*, the Direct Lending claims asserted on behalf of the Class (the "Direct Lending Settlement").<sup>1</sup> I have

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<sup>1</sup> GCG acted as the Settlement Administrator in connection with the initial, partial settlement of the Action that resolved all "Indirect Lending" claims asserted against the Defendants in the Action (the "Indirect Lending Settlement"), as described in the Declaration of Gerard Hanshe Regarding (A) Mailing of the Settlement Notice Packet; (B) Publication of the Summary Notice; and (C) Report on Challenges and Requests for Exclusion Received to Date dated June 30, 2015 (Doc. 475-1) and the Declaration of Jose C. Fraga Regarding Report on Challenges and Requests for Exclusion dated July 29, 2015 (Doc. 491-1).



personal knowledge of the facts stated herein, and if called on to do so, I could and would testify competently thereto.<sup>2</sup>

**MAILING OF THE SETTLEMENT NOTICE PACKET**

2. Pursuant to the terms of the Stipulation and the Preliminary Approval Order, for purposes of providing GCG with the information necessary to provide notice of the Direct Lending Settlement and calculate distributions from the Net Settlement Fund, Defendants were required to provide GCG with (i) a list of all Class Members identified by Defendants, which was to include, to the extent possible, the most current mailing address and contact person(s) for each Class Member and the email address for each contact person (the “Mailing List”); and (ii) a list setting forth each of the Core Pools in which each such Class Member was invested on each of the Relevant Dates and the dollar value of the Class Member’s investment in each of those Core Pools on each of the Relevant Dates (the “Investment Data”).

3. On October 18, 2016, GCG received an email from Defendants’ Counsel attaching three Excel files containing the Mailing List and Investment Data for the identified Class Members.

4. Pursuant to the Stipulation and the Preliminary Approval Order, using the information provided in the Excel files received from Defendants, GCG mailed a copy of the Settlement Notice and a personalized “Cover Letter” (collectively, the “Settlement Notice Packet”) to identified Class Members on November 7, 2016. A sample copy of the Settlement Notice Packet (redacted to remove confidential information) is attached hereto as Exhibit A.<sup>3</sup>

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<sup>2</sup> Unless otherwise defined herein, any capitalized terms shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement of Class Action dated July 25, 2016 (the “Stipulation”). (Doc. 573-1.)

<sup>3</sup> After the mailing of the Settlement Notice Packets, Northern Trust determined that it had incorrectly identified three entities as members of the Class, which required a modification to the

5. The personalized Cover Letter set forth the amount of the Class Member's investment in each of the Core Pools in which it was invested as of each of the "Relevant Dates" that form the basis for calculating the Class Member's proportionate share of the Net Settlement Fund under the proposed Plan of Allocation. Class Members were advised in the Settlement Notice Packets that if they agreed with the information set forth in the Cover Letter, they need not take any further action to be eligible to receive a distribution. However, as discussed in paragraph 9 below, Class Members were provided with the opportunity to submit an "Investment Challenge" if they disagreed with any of their investment data.

#### **PUBLICATION OF THE SUMMARY NOTICE**

6. Pursuant to the Preliminary Approval Order, the GCG Notice and Media team caused the Summary Notice to be published once in the national edition of *The Wall Street Journal* and to be transmitted over the *PR Newswire* on November 22, 2016. Attached hereto as Exhibit B is the affidavit of Jeff Aldridge, for the publisher of *The Wall Street Journal*, attesting to the publication of the Summary Notice on November 22, 2016. Attached hereto as Exhibit C is a confirmation report for the *PR Newswire*, attesting to the issuance of the Summary Notice over that wire service on November 22, 2016.

#### **WEBSITE**

7. In connection with the Indirect Lending Settlement, on March 31, 2015, GCG established and has continuously maintained a dedicated settlement website for the Action, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com). The settlement website has been updated to provide Class Members with information specific to the Direct Lending Settlement, and copies of the

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Total Class Member Holdings in Core USA set forth in Table A to the mailed Settlement Notice. An updated version of the Settlement Notice with the modified Core USA Class Member Holdings, a copy of which is attached hereto in Exhibit A, has been posted to the settlement website.

settlement documents related to the Direct Lending Settlement have been posted to the website. GCG will continue operating, maintaining and, as appropriate, updating the settlement website until the conclusion of this administration.

### **TELEPHONE HELPLINE**

8. GCG has established and continues to maintain a toll-free telephone number (1-800-231-1815) to accommodate Class Members and others who have questions about the Settlement. The telephone helpline is accessible from 8:00 a.m. to 5:30 p.m. (EST), Monday through Friday.

### **REPORT ON CHALLENGES AND EXCLUSION REQUESTS RECEIVED TO DATE**

9. **Investment Challenges.** The Settlement Notice informed Class Members that, if they wished to contest the investment data set forth in their Cover Letter, they must submit a written “Investment Challenge” to GCG, addressed to *Louisiana Firefighters’ Retirement System, et al. v. Northern Trust Investments, N.A. et al.*, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249. Any Investment Challenges are required to be postmarked no later than December 9, 2016, and submitted in accordance with the instructions set forth in the Settlement Notice. GCG has been monitoring all mail delivered to that Post Office Box, and through December 6, 2016, GCG has not received any Investment Challenges.


10. **Status Challenges.** The Summary Notice advised entities that did not receive the Settlement Notice by direct mail (*i.e.*, they were not identified by Defendants as Class Members) that, if they believed that they met the definition of the Class, they had the right to make a written “Status Challenge,” which, if successful, would put them in parity with the Class Members identified by Defendants. The Summary Notice set forth the requirements for submitting a Status Challenges, and advised that Status Challenges must be

mailed to GCG, addressed to *Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A. et al.*, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249, postmarked no later than December 23, 2016. GCG has been monitoring all mail delivered to that Post Office Box, and through December 6, 2016, GCG has not received any Status Challenges.

11. **Requests for Exclusion.** The Settlement Notice informs members of the Class that requests for exclusion from the Class are to be mailed or otherwise delivered, addressed to *Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A. et al.*, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249, such that they are received by GCG no later than December 21, 2016. The Settlement Notice also sets forth the information that must be included in each request for exclusion. GCG has been monitoring all mail delivered to that Post Office Box. Through December 6, 2016, GCG has not received any requests for exclusion. GCG will submit a supplemental declaration after the December 21, 2016 deadline for requesting exclusion that addresses any requests received. The supplemental declaration will also address any Investment or Status Challenges received after December 23, 2016.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in Lake Success, New York on December 7, 2016.

  
\_\_\_\_\_  
Jose Fraga

# **EXHIBIT A**

PLEASE READ THIS LETTER AND THE ACCOMPANYING COURT-AUTHORIZED SETTLEMENT NOTICE CAREFULLY. THIS IS NOT A SOLICITATION.

ID Number:

Class Member:

; \_eeACAAAAABDA;

Re: Proposed Settlement of Remaining Claims in Above-Noted Class Action

Dear :

You are receiving this letter and the enclosed Settlement Notice because, as Northern Trust previously advised you, Northern Trust has, based on its records, identified as a member of the "Direct Lending" Class in the above-noted class action lawsuit (the "Action"). This means that may be entitled to a share of the net proceeds of the proposed Settlement of the Direct Lending claims in the Action for \$4,250,000 in cash, if the Settlement is approved by the Court.<sup>1</sup> PLEASE READ THE ENTIRE ENCLOSED SETTLEMENT NOTICE PROMPTLY AND CAREFULLY, AS IT AFFECTS 's RIGHTS, CONTAINS IMPORTANT DEADLINES WITH RESPECT TO THE PROPOSED SETTLEMENT, AND DEFINES CERTAIN CAPITALIZED TERMS CONTAINED HEREIN.

As a Class Member, does not need to file a claim form or take any other action in order to be eligible to receive a distribution from the Settlement proceeds. Pursuant to procedures approved by the Court in this case, and as you were previously advised by Northern Trust would be done, Northern Trust has provided us with certain limited information concerning 's investments that will be the basis upon which the Settlement Administrator will calculate its pro rata share of the Settlement proceeds. This information will be used only in connection with this Settlement. The investment information provided to us is set forth in the following table:

Core Pool(s) in which invested on the Relevant Dates	was	Relevant Dates	Investment Value (\$)
Core USA Fund		9/19/2008	\$48,967,168.10
Core USA Fund		4/19/2010	\$45,280,002.83

If you believe that any of the information in the table above is incorrect or that the information is incomplete, you have the right to challenge the information by making an "Investment Challenge." The instructions and the deadline for making such a challenge are set forth in paragraph 28 of the enclosed Settlement Notice. All challenges will be reviewed and the challenger will be advised of the conclusion reached. If the conclusion is disputed, the challenger will have the right to request a Court review of the determination.

If, after reviewing this letter and the Settlement Notice, you have any questions regarding the proposed Settlement, please contact Co-Lead Counsel at the telephone number set forth in paragraph 47 of the Settlement Notice. Do not contact Northern Trust or the Court.

**Please Note:** All communications from you must always contain the "ID Number" assigned to that appears at the top of this letter.

Very truly yours,

GCG, Settlement Administrator

<sup>1</sup> As explained in the enclosed Settlement Notice, an initial, partial settlement of this Action that resolved all "Indirect Lending" claims asserted against the Defendants in the Action was previously approved by the Court. If this proposed Settlement of the Direct Lending claims is approved by the Court, it will resolve all remaining claims asserted in the Action and bring the case to an end.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM,  
THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL  
TEACHERS' PENSION AND RETIREMENT FUND OF  
CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF  
PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and  
THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC  
GENERAL EMPLOYEES RETIREMENT SYSTEM, on  
behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE  
NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

**NOTICE OF (I) CERTIFICATION OF CLASS AND PROPOSED SETTLEMENT OF CLASS ACTION;  
(II) SETTLEMENT HEARING; AND (III) MOTION FOR AN AWARD OF  
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

***A Federal Court authorized this Notice. This is not a solicitation from a lawyer.***

**NOTICE OF CERTIFICATION OF CLASS AND OF SETTLEMENT OF CLASS ACTION:** This notice is to inform you that plaintiffs The Board of Trustees of the City of Pontiac Police & Fire Retirement System (the "Pontiac Police & Fire Board") and The Board of Trustees of the City of Pontiac General Employees Retirement System (the "Pontiac General Board") (collectively, the "Settling Plaintiffs") have reached a proposed settlement of the remaining claims asserted in the above-captioned class action (the Action"), which provides for the payment by Defendants of a total of \$4,250,000 in cash. This Settlement Notice is being sent to you because you have been identified by defendants Northern Trust Investments, Inc. ("NTI") and The Northern Trust Company ("NTC") (collectively to be referred to as "Northern Trust" or "Defendants") as a member of the Class (as defined in ¶ 10 below). As such, your rights will be affected by the proposed Settlement.<sup>1</sup>

In the Action, Plaintiffs alleged, among other things, that Northern Trust imprudently invested collateral received to secure the loan of securities in connection with Northern Trust's securities lending program. Northern Trust disputes Plaintiffs' allegations of imprudence. Northern Trust also disputes Plaintiffs' claims for damages because of, among other things, \$150 million in support payments made by Northern Trust to investors in the Core Pools.

On August 5, 2015, the Court entered a final judgment approving the initial settlement reached in this Action between Northern Trust and plaintiffs Louisiana Firefighters' Retirement System ("Louisiana Firefighters"), The Board of Trustees of the Public School Teachers' Pension and Retirement Fund of Chicago (the "Chicago Teachers Board"), and the Pontiac Police & Fire Board, which resolved all Indirect Lending<sup>2</sup> claims asserted against Northern Trust in the Action.<sup>3</sup> The Settling Plaintiffs and Northern Trust have now reached an agreement to resolve all remaining claims asserted in the Action, *i.e.*, the Direct Lending<sup>4</sup> claims brought on behalf of the Class. If the Settlement is approved by the Court and becomes effective, it will resolve all Direct Lending claims and bring the Action to an end.

<sup>1</sup> Any capitalized terms used in this notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement of Class Action dated July 25, 2016 (the "Stipulation"), which is the controlling document with respect to the terms of the Settlement and is available at [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com). The Stipulation provides the controlling terms of the Settlement.

<sup>2</sup> "Indirect Lending" means participation in or exposure to Northern Trust's securities lending program through the purchase and/or holding of units or interests in Northern Trust's "Commingled Lending Funds," which engaged in securities lending.

<sup>3</sup> The distribution of the net settlement proceeds from the Indirect Lending settlement occurred on or about May 17, 2016.

<sup>4</sup> "Direct Lending" means any investor's participation in Northern Trust's securities lending program pursuant to an agreement to lend that investor's own securities, pursuant to which that investor's collateral from securities lending was invested in any Northern Trust collateral reinvestment vehicle. The universe of the collateral reinvestment vehicles that are included in the Settlement are: Core Collateral Section, Core USA Collateral Section, Global Core Collateral Section, and European Core Collateral Section, also referred to as Core, Core USA, Global Core, and European Core, respectively, along with any associated term loans or non cash collateral (collectively, the "Core Pools"). Please note: Investment in a Commingled Lending Fund is not and does not constitute "Direct Lending" and, for purposes of the Settlement, securities lending and collateral reinvestment by a Commingled Lending Fund does not constitute Direct Lending.

The Court has preliminarily approved the Settlement and has scheduled a hearing (the "Settlement Hearing") to be held on January 11, 2017 at 11:00 a.m. before The Honorable Jorge L. Alonso, at the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Courtroom 1219, Chicago, IL 60604. The purpose of the Settlement Hearing is to determine: (a) whether the proposed Settlement is fair, reasonable and adequate, and should be approved by the Court; (b) whether the Direct Lending claims should be dismissed with prejudice and the Class Released Claims (defined in ¶ 20, fn. 7 below) against Defendants and the other Defendants' Releasees (defined in ¶ 20, fn. 8 below) should be settled and released as set forth in the Stipulation; (c) whether the proposed Plan of Allocation is fair and reasonable, and should be approved by the Court; (d) whether Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses should be approved by the Court; and (e) any other relief the Court deems necessary to effectuate the terms of the Settlement. The Settlement and Co-Lead Counsel's application for attorneys' fees and reimbursement of expenses are discussed below at ¶¶ 12-22 and 30, respectively.<sup>5</sup> The proposed Plan of Allocation is set forth in Appendix 1 to this notice.

**The following table provides a brief summary of the rights you have as a Class Member and the relevant deadlines, which are described in more detail later in this notice. This notice also explains how you will be affected by the Settlement, whether or not you act. PLEASE READ THE NOTICE CAREFULLY AND IN ITS ENTIRETY.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:</b>	
<b>SINCE YOU HAVE RECEIVED THIS NOTICE BY DIRECT MAIL, NO ACTION IS NECESSARY IN ORDER FOR YOU TO BE ELIGIBLE TO RECEIVE A PAYMENT.</b>	Since you have been identified as a member of the Class, under the terms of the proposed Settlement, you do not need to submit a claim form or take any other action in order to be eligible to receive a payment from the proceeds of the Settlement, if it is approved by the Court. As set forth in ¶¶ 26-28 below, Defendants have provided the Settlement Administrator with the investment information that is needed to calculate your <i>pro rata</i> share of the Net Settlement Fund.
<b>YOU MAY EXCLUDE YOURSELF FROM THE CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN DECEMBER 21, 2016.</b>	You have the right to exclude yourself from the Class. If you do so, you will not be eligible to receive any payment from the Settlement Fund and you will not be bound by the terms of the Settlement. This is the only option that allows you to file or participate in any other lawsuit against Defendants or the other Defendants' Releasees (defined in ¶ 20, fn. 8 below) concerning the Class Released Claims (defined in ¶ 20, fn. 7 below).
<b>YOU MAY OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN DECEMBER 21, 2016.</b>	You have the right, if you do not like the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and reimbursement of Litigation Expenses, to write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation, or the fee and expense request if you exclude yourself from the Class.
<b>YOU MAY GO TO A HEARING ON JANUARY 11, 2017 AT 11:00 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN DECEMBER 21, 2016.</b>	Filing a written objection and notice of intention to appear that is received by December 21, 2016 allows you to speak in Court, at the discretion of the Court, about your objection. You may, but you do not have to, attend the hearing. The Court will consider the objection whether or not you attend.

<sup>5</sup> Co-Lead Counsel, who have been appointed by the Court to represent the Class, are: Bernstein Litowitz Berger & Grossmann LLP, c/o Avi Josefson, 875 North Michigan Avenue, Suite 3100, Chicago, IL 60611, (312) 373-3880, blbg@blbglaw.com; and Sullivan, Ward, Asher & Patton, P.C., c/o Michael J. Asher, 1000 Maccabees Center, 25800 Northwestern Highway, Southfield, MI 48075, (248) 746-0700.



**QUESTIONS ANSWERED BY THIS NOTICE**

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**WHY DID I GET THIS NOTICE?**

1. The Court has directed that this notice be mailed to you because Defendants have, based on their records, identified you as a member of the Class. As a member of the Class, you have a right to know how the proposed Settlement will affect your legal rights and what your options are before the Court rules on it. If the Court approves the Settlement and any objections and appeals are favorably resolved, the Net Settlement Fund will be allocated among Class Members according to the Court-approved plan of allocation and the Class Members will release the Class Released Claims (defined in ¶ 20, fn. 7 below) as against the Defendants' Releasees (defined in ¶ 20, fn. 8 below).

2. A class action is a type of lawsuit in which the claims of many individuals or entities are resolved together, thereby allowing for the consistent resolution of the claims of all similarly situated persons and entities, *i.e.*, the "class" or "class members," in a single proceeding. In a class action, one or more persons or entities, called "named" and/or "lead" plaintiffs, sue on behalf of the class. Once the class is certified by the court as appropriate for class treatment, the court must resolve all issues covered by the certification on behalf of the class members, except for any persons or entities who choose to exclude themselves from the class. (For more information on excluding yourself from the Class, please read "What If I Do Not Want To Be A Member Of The Class? How Do I Exclude Myself?," on page 8 below.)

3. In this Action, the Pontiac Police & Fire Board and the Pontiac General Board are the named Plaintiffs that have sued on behalf of the Class, and they are represented in the Action by Co-Lead Counsel. Co-Lead Counsel have been appointed Class Counsel to represent the Class.

4. This notice explains the lawsuit, the Settlement, your legal rights, what benefits are available to you, and how you may get them. The purpose of this notice is to inform you of the fact that the Court has certified the Class with respect to claims against Defendants concerning Direct Lending by Class Members. The purpose of this notice is also to inform you of the Settlement Hearing to be held by the Court to consider the fairness, reasonableness and adequacy of the proposed Settlement, the fairness and reasonableness of the proposed Plan of Allocation, and Co-Lead Counsel's application for an award of attorneys' fees and reimbursement of Litigation Expenses.

5. The issuance of this notice is not an expression of any opinion by the Court concerning the merits of the claims asserted in the Action with respect to Direct Lending or any other claim asserted in the Action, and the Court still has to decide whether to grant final approval of the Settlement. If the Court approves the Settlement and a plan of allocation, and any appeals that may be taken are resolved upholding approval of the Settlement, then payments to Authorized Payees will be made. Please be patient, as this process can take some time to complete.

**WHAT IS THIS CASE ABOUT?**

6. In this Action, Plaintiffs allege, among other things, that Defendants improperly invested collateral received to secure the loan of securities from the portfolios of clients that participated directly in Northern Trust's securities lending

program through a group of investment pools called the “Core Pools.” The “Core Pools” are the Core Collateral Section, Core USA Collateral Section, Global Core Collateral Section, and European Core Collateral Section, also referred to as Core, Core USA, Global Core, and European Core, respectively, along with any associated term loans or non cash collateral. Plaintiffs alleged that Defendants’ conduct gave rise to claims for breach of fiduciary duty, breach of contract, and breach of duty of good faith and fair dealing. Defendants deny any wrongdoing; assert that at all times, they acted reasonably and prudently and in accordance with applicable law; have asserted numerous defenses and affirmative defenses to the claims being settled, including Defendants’ provision of \$150 million in support payments to investors in the Core Pools; and state that they are entering into this Settlement to avoid the cost, disruption, and uncertainty of continued litigation.

7. The initial complaint was filed on November 17, 2009 by plaintiff Louisiana Firefighters. On July 16, 2010, plaintiffs Louisiana Firefighters, Chicago Teachers, the Pontiac Police & Fire Board, and the Pontiac General Board (collectively, “Plaintiffs”) filed an Amended Class Action Complaint. On June 30, 2011, Defendants filed an answer to the Amended Complaint and on July 14, 2011, Defendants filed an amended answer and affirmative defenses to the Amended Complaint; a counterclaim; and a third-party complaint. Plaintiffs filed a Second Amended Class Action Complaint on March 29, 2012. On June 5, 2012, Defendants answered the Second Amended Complaint, denying the material allegations therein and denying any liability or wrongdoing.

8. The parties have been litigating the Direct Lending claims for over six years, during which time Plaintiffs have received extensive documentation regarding the asserted claims from Defendants. Further details explaining the history of the litigation and reasons for agreeing to the proposed Settlement will be set forth in the papers that Settling Plaintiffs will file with the Court on December 7, 2016 in support of their motion for final approval of the Settlement. Those papers will be posted on the website maintained by the Settlement Administrator, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com).

9. On September 9, 2016, the Court preliminarily approved the Settlement, authorized this notice to be mailed to the Class Members as identified by Defendants, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

#### WHO IS INCLUDED IN THE CLASS?

10. The Class consists of:

all entities that are not governed by ERISA (notwithstanding any incorporation of an ERISA standard of care or other ERISA standards into any such entity’s applicable contracts with Northern Trust) and that directly invested or maintained investments or assets during the Class Period (*i.e.*, the period beginning September 14, 2008 through and including December 31, 2010) in any of the Core Pools.

Excluded from the Class are: (i) Defendants and their successors, their respective officers and directors (former, current and future), members of the Immediate Families of the respective officers and directors (former, current and future), and the legal representatives, heirs, successors or assigns of any such excluded person, and any entity in which any Defendant has or had a controlling interest; and (ii) any Commingled Lending Fund. Also excluded from the Class are any entities that exclude themselves by submitting a Request for Exclusion in accordance with the requirements set forth in this notice. See “What If I Do Not Want To Be A Member Of The Class? How Do I Exclude Myself,” on page 8 below.

11. As noted above, this notice has been mailed to you because Defendants have identified you as a Class Member, which means that, if the Settlement is approved and becomes effective, you will be eligible to receive a portion of the Settlement proceeds without any further action on your part.

#### WHAT ARE SETTLING PLAINTIFFS’ REASONS FOR THE SETTLEMENT?

12. Settling Plaintiffs agreed to the Settlement mainly because it provides an immediate and substantial recovery for the benefit of the Class – \$4.25 million in cash – paid into a Settlement Fund. If the Settlement is approved, the Settlement Fund, less certain costs, fees and expenses as set forth in ¶ 24 below, will be allocated among Class Members in accordance with the Plan of Allocation appended to this notice or such other plan of allocation as may be approved by the Court. As with any litigation, absent settlement, Settling Plaintiffs would face an uncertain outcome if the Direct Lending claims proceeded to a litigated resolution, including the risk of not prevailing at trial or on appeal. On the one hand, pursuing these claims could result in a verdict that would provide a greater recovery than the Settlement. On the other hand, continuing to prosecute these claims against Defendants could result in a recovery of less money than Settling Plaintiffs have obtained in the Settlement – or no recovery at all. The benefit of the Settlement must be compared to the risk that no recovery or a lesser recovery might be achieved with respect to the asserted claims regarding Direct Lending after dispositive motions, a contested trial and likely appeals, possibly years into the future.

13. Settling Plaintiffs and Co-Lead Counsel believe that the claims asserted against Defendants in the Action on behalf of Direct Lenders have merit. They also recognize, however, that such claims and the numerous defenses

Defendants have asserted in response to such claims involve complex legal and factual issues that may be difficult to prove at trial. Furthermore, even if liability is established, the parties disagree about the calculation of the damages resulting from Defendants' alleged misconduct; indeed, they disagree as to whether there were any damages at all resulting from Defendants' alleged misconduct. For example, Defendants contend that Northern Trust made support payments and other concessions to the Class that completely offset any losses the Class had incurred, including a cash contribution of \$150 million to investors in the securities lending pools in which the Class invested (*i.e.*, the Core Pools), and provided additional compensation to the Class by reducing the fees charged to investors in the Core Pools by 20 percent over a 12-month period. This issue would have been vigorously disputed in pre-trial motions, at any trial, and through any likely post-verdict appeal. The Settlement enables the Class to recover on the claims relating to Direct Lending without any additional risk or costs.

14. In light of the risks associated with a trial of the Direct Lending claims, the monetary amount of the Settlement, and the immediacy of this recovery to the Class, Settling Plaintiffs and Co-Lead Counsel believe that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the Class.

15. Defendants have expressly denied and continue to deny all assertions 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 Action with respect to Direct Lending. Defendants also continue to believe that the claims asserted against them in the Action with respect to Direct Lending are without merit. Defendants have agreed to enter into the Settlement, as embodied in the Stipulation, solely to avoid the uncertainty, burden and expense of protracted litigation of the claims asserted on behalf of the Class with respect to Direct Lending.

HOW ARE CLASS MEMBERS AFFECTED BY THE ACTION AND THE SETTLEMENT?

16. As a Class Member, you are represented by Settling Plaintiffs and Co-Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," below.

17. If you do not wish to remain a Class Member, you may exclude yourself from the Class by following the instructions in the section entitled, "What If I Do Not Want To Be A Member Of The Class? How Do I Exclude Myself?," below.

18. If you wish to object to the Settlement, the Plan of Allocation, or Co-Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses, and if you do not exclude yourself from the Class, you may present your objections by following the instructions in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," below.

19. By remaining in the Class, you agree that all proceeding with respect to the Settlement administration, processing of Challenges, and determinations made with respect thereto, including any challenges or controversies relating thereto, as well as any disputed questions of law and fact with respect thereto, shall be subject to the jurisdiction of the Court. By remaining in the Class, you expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

20. If you remain in the Class, you will be bound by any orders issued by the Court concerning the Settlement. If the Settlement is approved, the Court will enter a judgment (the "Judgment"). The Judgment will provide that, upon the Effective Date of the Settlement, Settling Plaintiffs and the Class Members, on their own behalf and on behalf of various others<sup>6</sup>, shall have fully, finally and forever settled, released, and dismissed with prejudice any and all Class Released

<sup>6</sup> Specifically, on behalf of all persons or entities on whose behalf each of the Settling Plaintiffs and each of the other members of the Class has standing to assert, individually or collectively, in full or in part, any Class Released Claims (as defined in footnote 7 below); and on behalf of each of all of the foregoing's respective past, present, or future fiduciaries, beneficiaries, members, participants, officers, directors, boards of trustees and trustees, boards and board members, insurers, reinsurers, heirs, executors, administrators, predecessors, successors, agents, and assigns, in their capacities as such; and on behalf of any other person or entity with standing to assert, in full or in part, any Class Released Claim on behalf of any Settling Plaintiff or Class Member, in their capacities as such.

Claims<sup>7</sup> as against the Defendants and the other Defendants' Releasees<sup>8</sup> and shall forever be enjoined from asserting or prosecuting any Class Released Claims as against each and all of the Defendants' Releasees.

21. Class Released Claims do not release or otherwise impact claims relating to the enforcement of the Settlement, any Non-Settled Claim, or any claims against Defendants' Releasees that do not fall within the definition of Class Released Claims. The Release also does not impact the right (if any) of any Class Members and all other persons and entities that are releasing the Class Released Claims to participate in the distribution of any funds recovered from any Defendant or any other Defendants' Releasee by any federal governmental or federal regulatory agency.

22. The Judgment will also provide that, upon the Effective Date of the Settlement, Defendants, on behalf themselves and certain others, will release, among other things, all claims against each of the Settling Plaintiffs, the other members of the Class, and the other Settling Plaintiffs' Releasees,<sup>9</sup> arising out of the institution, prosecution, or settlement of the Direct Lending claims asserted in the Action against Defendants.

HOW MUCH WILL MY PAYMENT BE?

23. As of the date of this notice, it is not possible to determine how much money any individual Class Member might receive from the Settlement if approved. Payments to Class Members will be based on a plan of allocation approved by the Court. Settling Plaintiffs have proposed a plan of allocation, which is set forth in Appendix 1 to this notice.

24. Pursuant to the Settlement, Defendants have agreed to pay Four Million Two Hundred and Fifty Thousand Dollars (\$4,250,000) in cash. The Settlement Amount has been deposited into an escrow account. The Settlement Amount plus any interest earned is referred to as the "Settlement Fund." If the Settlement is approved by the Court and the Effective Date occurs, the "Net Settlement Fund" (the Settlement Fund less (a) applicable taxes and the reasonable costs incurred in connection with determining the amount of and paying taxes owed by the Settlement Fund; (b) the costs and expenses incurred in connection with providing notice to Class Members and administering the Settlement on behalf of Class Members; and (c) attorneys' fees and Litigation Expenses awarded by the Court to Co-Lead Counsel), will be distributed

<sup>7</sup> "Class Released Claims" means, to the fullest extent allowed by law, any and all claims, damages, losses, suits, proceedings, debts, demands, duties, liabilities, rights, remedies, or causes of action of every nature and description whatsoever, whether known claims or Unknown Claims; whether based on federal, state, local, or foreign law; whether based on statutory law, common law, administrative law, rule, regulation, or other source of law; whether fixed or contingent; whether foreseen or unforeseen; whether matured or unmatured; whether accrued or unaccrued; whether liquidated or unliquidated; whether at law or in equity; whether class or individual in nature; whether subject to mandatory or permissive arbitration or alternative dispute resolution procedures; and whether direct, indirect, or derivative in nature, against each and every Defendants' Releasee, that arise out of or are based upon Class Members' Direct Lending from September 14, 2008 through and including December 31, 2010 that (i) have been asserted in the Action or the Initial Complaints; or (ii) that could have been asserted in any forum that arise out of, relate to, or are based upon the claims and allegations in the Action that relate to Class Members' Direct Lending from September 14, 2008 through and including December 31, 2010, including but not limited to the acts, omissions, misrepresentations, facts, events, matters, transactions, or occurrences alleged that relate to Class Members' Direct Lending from September 14, 2008 through and including December 31, 2010, through Northern Trust's direct securities lending program, including the investment of securities lending collateral; the holding of such investments; principal, interest, income, and revenue losses from Direct Lending; fees, costs, and other charges associated with Direct Lending; any and all agreements governing Class Members' Direct Lending but only to the extent they relate to Direct Lending. Class Released Claims do not include, release, bar, waive, impair, prejudice, enjoin, or otherwise impact claims relating to the enforcement of the Settlement, any Non-Settled Claim, or any claims against Defendants' Releasees that do not fall within the definition of Class Released Claims, nor is the right (if any) of any Settling Plaintiffs, Class Members and all other persons and entities who or which are releasing the Class Released Claims to participate in the distribution of any funds recovered from any Defendant or any other Defendants' Releasee by any federal governmental or federal regulatory agency, including as a result of any judgment obtained in litigation brought by any federal governmental or federal regulatory agency, in any way compromised, limited or impaired by the release of the Class Released Claims.

<sup>8</sup> "Defendants' Releasees" means (i) NTI (including Northern Trust Investments, N.A.) and NTC, and each of their respective present, former, and future affiliates, subsidiaries, and parents; (ii) for each of the foregoing entities, any entities in which each or they have a controlling interest, their respective present, former, and future employees, officers, boards, directors, trustees, accountants, auditors, insurers, reinsurers, agents, fiduciaries, and attorneys, in their capacities as such; and (iii) for each of the foregoing persons and entities in (i) and (ii), their respective predecessors, successors, estates, heirs, executors, trusts, trustees, administrators, family members, agents, representatives, and assigns, in their capacities as such.

<sup>9</sup> "Settling Plaintiffs' Releasees" means (i) the Settling Plaintiffs (in their representative capacities with respect to the Boards of each Settling Plaintiff), and any and all other members of the Class, and each of their respective present, former, and future affiliates, subsidiaries, and parents, (ii) for each of the foregoing persons and entities, any entities in which each or they have a controlling interest, their respective present, former, and future employees, officers, boards, directors, trustees, accountants, auditors, insurers, reinsurers, agents, fiduciaries and attorneys, in their capacities as such; and (iii) for each of the foregoing persons and entities in (i) and (ii), their respective predecessors, successors, estates, heirs, executors, trusts, trustees, administrators, family members, agents, representatives and assigns, in their capacities as such.

to Class Members, in accordance with the Plan of Allocation or such other plan of allocation as may be approved by the Court.

25. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the Effective Date has occurred. Class Members are not required to submit a claim form in order to receive a distribution from the Net Settlement Fund.

HOW WILL I RECEIVE PAYMENT FROM THE SETTLEMENT?

26. As previously noted, as a recipient of this notice by direct mail, you have been identified as a Class Member that might receive a payment from the Settlement proceeds. To be eligible for a payment from the proceeds of the Settlement, you need do nothing more. Your "Investment Amount" (the amount invested in a given Core Pool on each of the Relevant Dates<sup>10</sup>) has been determined by Defendants based on their records, as set forth in the chart included in the Cover Letter accompanying this notice.

27. If the Settlement is approved and the Effective Date occurs, *pro rata* distributions of the Net Settlement Fund will be mailed to all eligible Class Members. If your address or the contact person noted on the Cover Letter changes, please be sure to send the new information in writing to the Settlement Administrator at *Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A. et al.*, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249.

28. As set forth in the Cover Letter, if you believe that any of the investment information set forth in the Cover Letter is incorrect or incomplete, you have the right to challenge the information. In order for your challenge to be valid, you must notify the Settlement Administrator in writing at the address set forth in ¶ 27 above, postmarked no later than December 9, 2016, that you challenge the investment information in the Cover Letter that you received. Your notification must set forth the specific items that you are challenging and must include a detailed statement of the basis for the challenge as well as documentation in support of your challenge. Your challenge will be reviewed by Co-Lead Counsel and you will be notified by the Settlement Administrator of their determination. If an Investment Challenge results in a change to any of the investment information provided for you, your Distribution Amount (as defined in the Plan of Allocation) will be calculated based on the revised information. If you disagree with the determination made with respect to your challenge, you have the right to request a Court review. The specifics as to how such a request for Court review must be made will be set forth in the notification from the Settlement Administrator that contains the determination made with respect to the challenge.

29. Although Defendants have provided records representing what they believe to be the universe of Class Members, the Settling Parties recognize some entity may have been omitted as a Class Member. To address this possibility, the Settlement provides for a Status Challenge. The requirements for making such a challenge are set forth in the Summary Notice, which is being published and which will also be posted on the website maintained by the Settlement Administrator, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com). Because you received this notice by direct mail addressed to you, you have been identified by Defendants as a Class Member and you do not need to take steps to ensure you are included in the Class. However, to the extent that an entity that did not receive this notice by direct mail can establish that it is a Class Member, such entity shall be eligible to receive a proportionate share of the Settlement proceeds, and such entity shall be subject to the terms of the Settlement, including the releases provided for, as set forth in ¶ 20 above.

WHAT PAYMENT ARE THE ATTORNEYS FOR THE CLASS SEEKING?  
HOW WILL THE LAWYERS BE PAID?

30. Co-Lead Counsel have not received any payment for their services in pursuing claims against the Defendants on behalf of the Class, nor have Co-Lead Counsel been reimbursed for their out-of-pocket expenses. Before final approval of the Settlement, Co-Lead Counsel will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed 18% of the Settlement Fund. At the same time, Co-Lead Counsel also intend to apply for reimbursement of Litigation Expenses paid or incurred in connection with the Action in an amount not to exceed \$400,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by the Settling Plaintiffs directly related to their representation of the Class. Co-Lead Counsel will file their application on December 7, 2016 and the papers will be posted on the website maintained by the Settlement Administrator, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com). The Court will decide the amount of any award of attorneys' fees or reimbursement of Litigation Expenses. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

<sup>10</sup> The Relevant Dates are September 19, 2008 and April 19, 2010.

WHAT IF I DO NOT WANT TO BE A MEMBER OF THE CLASS?  
HOW DO I EXCLUDE MYSELF?

31. Each Class Member will be bound by the provisions of the Settlement and by all determinations and judgments in this lawsuit with respect to the Direct Lending claims, whether favorable or unfavorable, unless such entity mails or delivers a written Request for Exclusion from the Class, addressed to *Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A. et al.*, EXCLUSIONS, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249. The Request for Exclusion must be **received** no later than December 21, 2016. A Class Member will not be able to exclude itself from the Class after that date. Each Request for Exclusion from a Class Member that received this notice by direct mail addressed to it must (a) state the name, address and telephone number of the entity requesting exclusion, and the name, address and telephone number of the appropriate contact person for the entity; (b) state that such entity "requests exclusion from the Direct Lending Class in *Louisiana Firefighters' Retirement System et al. v. Northern Trust Investments, N.A. et al*, Civil Action No. 09-7203"; and (c) be signed by an authorized representative of the entity. If an entity that previously directed Defendants not to provide the Settlement Administrator identifying and investment information as it relates to it, wants to request exclusion from the Class, the Request for Exclusion must, in addition to complying with the provisions of the preceding sentence, state that the previous direction is rescinded, in which event Defendants, pursuant to Court Order, will promptly provide the information to the Settlement Administrator and Co-Lead Counsel. PLEASE NOTE: It is possible that a Class Member with multiple Northern Trust accounts may receive more than one copy of this notice. However, regardless of how many copies of the notice a Class Member receives, it should only submit one Request for Exclusion. Each legal entity that falls within the definition of the Class is a Class Member and a Request for Exclusion applies to the legal entity making the request. If a Class Member has invested directly in Core Pools through multiple Northern Trust accounts, its Request for Exclusion will apply to all of that Class Member's Northern Trust accounts and investments and assets in all of the Core Pools.

32. Should any entity that did not receive this notice by direct mail or did not receive a Banking Notice, believe that it is a Class Member and wish to exclude itself from the Class, such entity, in addition to (a) stating the name, address and telephone number of the entity requesting exclusion, and the name, address and telephone number of the appropriate contact person for the entity; (b) stating that such entity "requests exclusion from the Direct Lending Class in *Louisiana Firefighters' Retirement System et al. v. Northern Trust Investments, N.A. et al*, Civil Action No. 09-7203"; and (c) having the request signed by an authorized representative of the entity, must also include with its request information and documents sufficient to prove that it is a Class Member. Such request must be submitted to the Settlement Administrator so that it is **received** no later than December 21, 2016.

33. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in ¶¶ 31 or 32 above as applicable and is received within the time stated above, or is otherwise accepted by the Court.

34. Any entity that does not want to be part of the Class must follow these instructions for exclusion even if it has pending, or later files, another lawsuit, arbitration, or other proceeding relating to any Class Released Claim against any of the Defendants' Releasees.

35. Any Class Member that is excluded from the Class will not be eligible to receive any payment out of the Net Settlement Fund.

36. Defendants have the right to terminate the Settlement if valid Requests for Exclusion are received in an amount that exceeds the amount agreed to by Settling Plaintiffs and Defendants.

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE  
SETTLEMENT? DO I HAVE TO COME TO THE HEARING?  
MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?

**37. Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Class Member does not attend the hearing. Class Members can participate in the Settlement without attending the Settlement Hearing.**

38. The Settlement Hearing will be held on January 11, 2017 at 11:00 a.m. before The Honorable Jorge L. Alonso, at the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Courtroom 1219, Chicago, IL 60604. The Court reserves the right to approve the Settlement, the Plan of Allocation, Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the members of the Class.

39. Any Class Member that does not request exclusion may object to the Settlement, the proposed Plan of Allocation, or Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the

objection, with the Clerk's Office at the United States District Court for the Northern District of Illinois at the address set forth below on or before December 21, 2016. You must also serve the papers on representative Co-Lead Counsel and on Defendants' Counsel at the addresses set forth below so that the papers are **received** on or before December 21, 2016.

**Clerk's Office**

United States District Court  
Northern District of Illinois  
Clerk of the Court  
Everett McKinley Dirksen  
United States Courthouse  
219 South Dearborn Street  
Chicago, IL 60604

**Representative Co-Lead Counsel**

Avi Josefson  
Bernstein Litowitz Berger  
& Grossmann LLP  
875 North Michigan Avenue  
Suite 3100  
Chicago, IL 60611

**Defendants' Counsel**

David J. Bradford  
Jenner & Block LLP  
353 N. Clark Street  
Chicago, IL 60654

40. Any objection (a) must state the name, address and telephone number of the entity objecting and must be signed by an authorized representative of the objector; (b) must contain a statement of the Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Class Member wishes to bring to the Court's attention; and (c) if that entity did not receive the Settlement Notice by direct mail, the objection must include documents sufficient to prove the entity's membership in the Class. You may not object to the Settlement, the Plan of Allocation, or Co-Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses if you exclude yourself from the Class.

41. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first filed and served a written objection in accordance with the procedures described above, unless the Court orders otherwise.

42. If you wish to be heard orally at the hearing and if you file and serve a timely written objection as described above, you must also file a notice of appearance with the Clerk's Office and serve it on representative Co-Lead Counsel and Defendants' Counsel at the addresses set forth in ¶ 39 above so that it is **received** on or before December 21, 2016. Any member of the Class that intends to object and desires to present evidence at the Settlement Hearing must include in its written objection or notice of appearance the identity of any witnesses it may call to testify and exhibits it intends to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

43. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on representative Co-Lead Counsel and Defendants' Counsel at the addresses set forth in ¶ 39 above so that the notice is **received** on or before December 21, 2016.

44. The Settlement Hearing may be adjourned by the Court without further written notice to the Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Co-Lead Counsel or by visiting the website maintained by the Settlement Administrator at [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com).

**45. Unless the Court orders otherwise, any Class Member that does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, or Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.**

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

46. This notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at the Office of the Clerk, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, IL 60604. Additionally, copies of the operative complaint in the Action, the Stipulation, Settling Plaintiffs' papers in support of final approval of the Settlement, Co-Lead Counsel's papers in support of their application for an award of attorneys' fees and reimbursement of Litigation Expenses, and any related orders entered by the Court will be posted on the website maintained by the Settlement Administrator, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com).

47. All inquiries concerning this notice should be directed to the Settlement Administrator at *Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A. et al.*, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249, (800) 231-1815, or to the following Co-Lead Counsel:

Avi Josefson  
Bernstein Litowitz Berger  
& Grossmann LLP  
875 North Michigan Avenue, Suite 3100  
Chicago, IL 60611  
(312) 373-3880

**DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT,  
DEFENDANTS, OR THEIR COUNSEL REGARDING THIS NOTICE.**

Dated: November 7, 2016

By Order of the Court  
United States District Court  
Northern District of Illinois



Appendix 1

**PLAN OF ALLOCATION**

1. The objective of the Plan of Allocation is to equitably distribute the Settlement proceeds to Class Members. The Plan of Allocation is not intended to provide estimates of, nor be indicative of, the amounts that Class Members might have been able to recover after a trial.

2. The Plan of Allocation is based on the estimated losses in certain securities as measured on or about certain "Relevant Date(s)" by the following investment pools through which Class Members participated directly in Northern Trusts' securities lending program: Core Collateral Section ("Core"), Core USA Collateral Section ("Core USA"), Global Core Collateral Section ("Global Core"), and European Core Collateral Section ("European Core"), along with any associated term loans or non-cash collateral (collectively, the "Core Pools"). The Net Settlement Fund will be allocated based on (i) the relative estimated losses realized by each of the Core Pools on or about the Relevant Dates and (ii) the relative investment of each Class Member in each of the Core Pools on the Relevant Dates as compared to the total value of all Class Members' holdings in the respective Core Pools on the Relevant Dates.

3. Co-Lead Counsel, based on an analysis performed by Settling Plaintiffs' damages expert, developed the Plan of Allocation in consideration of, among other things, the losses incurred in the Core Pools and the relative risks associated with establishing damages for the Core Pools. Based on that assessment it was determined that the Net Settlement Fund should be allocated 6% to Core (the "Core Loss Percentage"); 54% to Core USA (the "Core USA Loss Percentage"), 21% to Global Core (the "Global Core Loss Percentage"), and 19% to European Core (the "European Core Loss Percentage").

4. For purposes of distributing the portion of the Settlement Fund allocated to the respective Core Pools among the Class Members, two Relevant Dates around which significant losses were incurred in the Core Pools are used in the Plan of Allocation to determine relative Core Pool losses: September 19, 2008 and April 19, 2010. Each Class Member's *pro rata* interest in each Core Pool on each of those two Relevant Dates reflects that Class Member's share of the Loss Percentage allocated to that Core Pool for each Relevant Date.

5. The *pro rata* interest of a Class Member in a Core Pool will be based on the dollar value of the Class Member's investment in that Core Pool on the Relevant Date (as set forth in the Investment Data provided to the Settlement Administrator by Defendants) in comparison to the total value of all Class Members' holdings in the Core Pool on that Relevant Date as set forth in Table A that appears at the end of this Notice.

6. Each Class Member's relative allocated share of the losses incurred by each of the Core Pools will be determined based on the following:

(a) The Core Loss Percentage will be divided between the two Relevant Dates based on the relative amounts of estimated realized losses incurred in Core on those two dates:

- (i) September 19, 2008: 54% of the Core Loss Percentage.
- (ii) April 19, 2010: 46% of the Core Loss Percentage.

(b) The Core USA Loss Percentage will be divided between the two Relevant Dates based on the relative amounts of estimated realized losses incurred in Core USA on those two dates:

- (i) September 19, 2008: 61% of the Core USA Loss Percentage.
- (ii) April 19, 2010: 39% of the Core USA Loss Percentage.

(c) The Global Core Loss Percentage will be divided between the two Relevant Dates based on the relative amounts of estimated realized losses incurred in Global Core on those two dates:

- (i) September 19, 2008: 63% of the Global Core Loss Percentage.
- (ii) April 19, 2010: 37% of the Global Core Loss Percentage.

(d) The European Core Loss Percentage will be divided between two Relevant Dates based on the relative amounts of estimated realized losses incurred in European Core on those two dates:

- (i) September 19, 2008: 82% of the European Core Loss Percentage.
- (ii) April 19, 2010: 18% of the European Core Loss Percentage.

(e) The Loss Percentage allocated to each Core Pool on each Relevant Date will then be allocated among the Class Members based upon each Class Member's relative investment in the Core Pool on each Relevant Date. A Class Member's relative investment in a Core Pool shall be determined by dividing the dollar value of the Class Member's investment in the pool on each Relevant Date (as set forth in the Investment Data provided by Defendants) by the total value of all Class Members' holdings in that pool on each Relevant Date as set forth in Table A. This will be the Class Member's "Percentage Share" of that Core Pool for each Relevant Date.

#### **CALCULATION OF DISTRIBUTIONS FROM THE NET SETTLEMENT FUND**

7. The Settlement Administrator will calculate each Class Member's distribution from the Net Settlement Fund based on the calculations set forth in paragraphs 1 - 6 above.

8. Table A, attached at the end of this Notice, sets forth for each Core Pool: (a) the Loss Percentage for the pool; (b) the percentage of the pool's Loss Percentage allocated to each of the Relevant Dates; and (c) the total value of the Class Members' interests in each pool on each of the Relevant Dates.

9. Based on the allocations of the Loss Percentages set forth in paragraph 6 above (which are also set forth in Table A), each Class Member's proportionate share of the Net Settlement Fund will be calculated as follows:

(a) For each Core Pool on each Relevant Date, the Settlement Administrator will multiply the percentage allocated to the Core Pool by the amount in the Net Settlement Fund to determine the portion of the Net Settlement Fund available for distribution to Class Members who were invested in the respective Core Pool on each Relevant Date.

(b) With respect to each Core Pool on each Relevant Date, the Settlement Administrator will multiply the amount determined pursuant to subparagraph 9(a) above by the Class Member's Percentage Share (calculated as described in paragraph 6(e) above) to determine the amount allocable to the Class Member (the "Core Pool Distribution Amount").

(c) The total of a Class Member's Core Pool Distribution Amounts shall be the Class Member's "Distribution Amount".

10. In the event that any Class Members do not participate in the Settlement, the funds that would otherwise be allocated to such non-participating Class Members will be re-allocated among the participating Class Members by applying each of the levels of allocation discussed in paragraphs 3 and 6 above to such Core Pools.

#### **ADDITIONAL PROVISIONS**

11. After the initial distribution of the Net Settlement Fund, the Settlement Administrator shall make reasonable and diligent efforts to have Class Members cash their distribution checks. If six (6) months after the initial distribution, the amount remaining in the Net Settlement Fund after paying any unpaid fees and expenses incurred in administering the Settlement, including the costs associated with a re-distribution, equals or exceeds \$25,000, the Settlement Administrator shall conduct a re-distribution of the funds remaining to Class Members who have cashed their initial distributions and who would receive at least \$20 in such re-distribution. Additional re-distributions to Class Members who have cashed their prior checks and who would receive at least \$20 in such re-distribution may occur thereafter until the balance remaining in the Net Settlement Fund is under \$25,000. At such time as the amount remaining in the Net Settlement Funds is under \$25,000, after paying any unpaid fees and expenses incurred in administering the Settlement (including the costs of re-distributions), the remaining balance shall be contributed to non-sectarian, not-for-profit 501(c)(3) organization(s), to be recommended by Co-Lead Counsel and approved by the Court.

12. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Class Members. No person or entity shall have any claim against Settling Plaintiffs, Co-Lead Counsel, Settling Plaintiffs' damages expert, Defendants, Defendants' Counsel, or any of the other Releasees, or the Settlement Administrator or other agent designated by Co-Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders of the Court. Settling Plaintiffs, Defendants and their respective counsel, and all other Defendants' Releasees, shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund; the Plan of Allocation or such other plan of allocation as may be approved by the Court; the determination, administration, calculation, or payment of any distributions from the Settlement Fund or the Net Settlement Fund; the performance or nonperformance of the Settlement Administrator; the payment or withholding of taxes owed by the Settlement Fund; or any losses incurred in connection with any of the foregoing.

13. The Plan of Allocation set forth herein is the plan that is being proposed to the Court for its approval by Settling Plaintiffs after consultation with their damages expert. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Class. Any Orders regarding the Plan of Allocation, including any order that modifies the Plan of Allocation should the Court enter such an order, will be posted on the Settlement website, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com).

TABLE A

<b>Core Loss Percentage - 6%</b>			
9-19-08 % of Core Loss Percentage	9-19-08 Total Class Member Holdings in Core	4-19-10 % of Core Loss Percentage	4-19-10 Total Class Member Holdings in Core
54%	\$4,180,069,059.88	46%	\$1,892,983,750.07

<b>Core USA Loss Percentage - 54%</b>			
9-19-08 % of Core USA Loss Percentage	9-19-08 Total Class Member Holdings in Core USA	4-19-10 % of Core USA Loss Percentage	4-19-10 Total Class Member Holdings in Core USA
61%	\$30,566,899,791.43	39%	\$21,783,582,649.22

<b>Global Core Loss Percentage - 21%</b>			
9-19-08 % of Global Core Loss Percentage	9-19-08 Total Class Member Holdings in Global Core	4-19-10 % of Global Core Loss Percentage	4-19-10 Total Class Member Holdings in Global Core
63%	\$20,992,920,050.15	37%	\$11,445,640,289.33

<b>European Core Loss Percentage - 19%</b>			
9-19-08 % of European Core Loss Percentage	9-19-08 Total Class Member Holdings in European Core	4-19-10 % of European Core Loss Percentage	4-19-10 Total Class Member Holdings in European Core
82%	\$14,378,231,163.38	18%	\$10,936,839,088.79

# **EXHIBIT B**





# **EXHIBIT C**



# Co-Lead Counsel Announce Proposed Settlement of Remaining Claims in Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A. et al.

NEWS PROVIDED BY

**Bernstein Litowitz Berger & Grossmann LLP**



(<http://www.prnewswire.com/news/bernstein-litowitz-berger-grossmann-llp>)

Nov 22, 2016, 09:00 ET

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CHICAGO, Nov. 22, 2016 /PRNewswire/ -- The following statement is being issued by Bernstein Litowitz Berger & Grossmann LLP and Sullivan, Ward, Asher & Patton, P.C., regarding Louisiana Firefighters' Retirement System et al. v. Northern Trust Investments, N.A. et al.

## **UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS**

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated, Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE NORTHERN TRUST COMPANY,  
Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

**SUMMARY NOTICE OF (I) CERTIFICATION OF CLASS AND PROPOSED SETTLEMENT OF CLASS ACTION, (II) SETTLEMENT HEARING, AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

**TO: All entities that are not governed by ERISA (notwithstanding any incorporation of an ERISA standard of care or other ERISA standards into any such entity's applicable contracts with Northern Trust) and that directly invested or maintained investments or assets during the period beginning September 14, 2008 through and including December 31, 2010 (the "Class Period") in any of the Core Collateral Section, Core USA Collateral Section, Global Core Collateral Section, and/or European Core Collateral Section, also referred to as Core, Core USA, Global Core, and European Core, respectively, along with any associated term loans or non cash collateral (the "Core Pools") (the "Class").<sup>1</sup>**

**PLEASE READ THIS NOTICE CAREFULLY, YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.**

This is to notify you that the United States District Court for the Northern District of Illinois (the "Court") has preliminarily approved a proposed Settlement of the remaining claims asserted in above-captioned class action lawsuit (the "Action").<sup>2</sup> Pursuant to the Settlement, Defendants have agreed to pay \$4,250,000 in cash into escrow in resolution of the "Direct Lending" claims (as defined below) asserted on behalf of the Class in the Action.<sup>3</sup> The cash settlement amount, plus interest thereon, less administrative fees, costs and attorneys' fees approved by the Court, will be distributed to Class Members according to a Plan of Allocation proposed by Co-Lead Counsel or such other plan of allocation as may be approved by the Court. Defendants have expressly denied and continue to deny all assertions of wrongdoing or liability against them in the Action and have agreed to enter into the Settlement solely to avoid the uncertainty, burden and expense of protracted litigation of the claims asserted on behalf of the Class.

"Direct Lending" as used herein and for purposes of the proposed Settlement means any investor's participation in Northern Trust's securities lending program pursuant to an agreement to lend that investor's own securities, pursuant to which that investor's collateral from securities lending was invested in any Northern Trust collateral reinvestment vehicle. The universe of Direct Lending investors who are members of the Class is limited to those who invested in any of the Core Pools. Please note:

Investment in a Commingled Lending Fund is not and does not constitute "Direct Lending" and, for purposes of the Settlement, securities lending and collateral reinvestment by a Commingled Lending Fund does not constitute Direct Lending.

A hearing will be held on January 11, 2017 at 11:00 a.m. before The Honorable Jorge L. Alonso, at the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Courtroom 1219, Chicago, IL 60604, to determine (a) whether the proposed Settlement should be approved as fair, reasonable, and adequate; (b) whether the Direct Lending claims should be dismissed with prejudice; (iii) whether the proposed Plan of Allocation should be approved as fair and reasonable; and (iv) whether Co-Lead Counsel's application for an award of attorneys' fees and reimbursement of expenses, which will be filed with the Court on or before December 7, 2016 and available for review by Class Members, should be approved.

**If you are a member of the Class, your rights will be affected by the certification of the Class and the proposed Settlement.** Defendants have identified from their records the entities they believe to be members of the Class and a more detailed notice of the pendency of the class action and proposed settlement (the "Settlement Notice") was mailed directly to each such entity on November 7, 2016. The Settlement Notice sets forth the rights of Class Members and important deadlines and is available on the website maintained by the Settlement Administrator, [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com) (<http://www.northerntrustclassaction.com/>). PLEASE READ IT CAREFULLY AND IN ITS ENTIRETY.

Entities which received the Settlement Notice by direct mail do not need to do anything to be eligible to receive a distribution from the Settlement proceeds if the Settlement is approved by the Court. Defendants have provided the Settlement Administrator with each identified Class Member's relevant investment information for the purpose of calculating their *pro rata* share of the Net Settlement Fund under the plan of allocation that is approved by the Court. If an identified Class Member directed Defendants not to provide this information to the Settlement Administrator and Co-Lead Counsel, such entity has forfeited all right to any distribution from the Settlement proceeds.

***If you did not receive a copy of the Settlement Notice by direct mail and you believe that you are a member of the Class,*** you have the right to challenge your omission from the Class ("Status Challenge"). To be a Class Member, you must have directly invested or maintained investments or assets in one or more of the Core Pools during the Class Period. In order to be eligible to establish your status as a Class Member, you must submit your challenge to the Settlement Administrator in writing postmarked no later than December 23, 2016 at the following address:  
*Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A.*

*et al.*, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249. The challenge must set forth a detailed statement of the basis for your belief that you are a Class Member and must include documentation in support of your position. Status Challenges will be reviewed and the challenger will be advised of the conclusion reached. If the conclusion is disputed, the challenger will have the right to request a Court review of the determination.

As described more fully in the Settlement Notice, Class Members have the right to request exclusion from the Class, but any such request must comply with the instructions set forth in the Settlement Notice and must be *received* no later than December 21, 2016. Any Class Member properly requesting to be excluded from the Class will not be bound by any judgment or orders entered by the Court with respect to the Direct Lending claims and will not be eligible to share in the proceeds of the Settlement.

Any objections to the proposed Settlement, the proposed Plan of Allocation, or Co-Lead Counsel's application for attorneys' fees and reimbursement of expenses, must be filed with the Court and delivered to Co-Lead Counsel and Defendants' Counsel such that they are *received* no later than December 21, 2016, in accordance with the instructions set forth in the Settlement Notice which has been posted on the websites noted above.

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE. All inquiries concerning this notice should be directed to the Settlement Administrator at *Louisiana Firefighters' Retirement System, et al. v. Northern Trust Investments, N.A. et al.*, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249, or to the following Co-Lead Counsel:

Avi Josefson  
Bernstein Litowitz Berger & Grossmann LLP  
875 North Michigan Avenue, Suite 3100  
Chicago, IL 60611  
(312) 373-3880

By Order of the Court

<sup>1</sup> Certain persons and entities are excluded from the Class by definition as set forth in ¶ 10 of the full printed Settlement Notice described herein.

<sup>2</sup> This notice is only a summary; the Stipulation and Agreement of Settlement of Class Action dated July 25, 2016 (the "Stipulation"), a copy of which is available at [www.NorthernTrustClassAction.com](http://www.NorthernTrustClassAction.com) (<http://www.northerntrustclassaction.com/>), controls the terms of the Settlement.

<sup>3</sup> An initial, partial settlement of this Action that resolved all "Indirect Lending" claims asserted against the Defendants in the Action was approved by the Court on August 5, 2015.

SOURCE Bernstein Litowitz Berger & Grossmann LLP

(<http://www.prnewswire.com/news-releases/bernstein-litowitz-berger--grossmann-llp-announces-proposed-settlement-in-the-barrett-business-services-securities-class-action-300364413.html>) (<http://www.prnewswire.com/news-releases/bernstein-litowitz-berger--grossmann-llp-announces-amended-securities-class-action-suit-filed-against-stericycle-inc-its-directors-certain-of-its-senior-executives-and-underwriters-of-its-public-securities-offering-300309335.html>)

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# **EXHIBIT 3**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

Magistrate Judge Susan E. Cox

**DECLARATION OF CHUCK WYTRYCHOWSKI, PLAN MANAGER OF THE CITY OF PONTIAC POLICE AND FIRE RETIREMENT SYSTEM, IN SUPPORT OF (I) SETTLING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, AND (II) CO-LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

I, Chuck Wytrychowski, hereby declare under penalty of perjury as follows:

1. I am the Plan Manager of the City of Pontiac Police and Fire Retirement System (the "Pontiac Police and Fire System").<sup>1</sup> The Pontiac Police and Fire System is a public pension plan and trust established for the exclusive benefit of police, fireman and certain other employees of the Pontiac, Michigan police and fire forces. The Pontiac

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<sup>1</sup> Unless otherwise defined herein, any capitalized terms shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement of Class Action dated July 25, 2016 (the "Stipulation"). (Doc. 573-1.)



Police and Fire System serves over 588 members and has over \$225 million in assets under management. The Board of Trustees of the Pontiac Police and Fire System (the “Pontiac Police and Fire Board”), which has the authority to administer the Pontiac Police and Fire System and to bring legal proceedings on its behalf, is one of the Settling Plaintiffs in the above-captioned action (the “Action”).<sup>2</sup>

2. I submit this Declaration in support of (i) Settling Plaintiffs’ motion for final approval of the proposed settlement of remaining claims asserted in the Action (the “Settlement”), which will resolve the Direct Lending claims of Class Members against Defendants; and (ii) Co-Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of litigation expenses. The following statements are based on my personal knowledge as well as information provided to me by other employees of Pontiac Police and Fire who have been directly involved in monitoring and overseeing the prosecution of the Action.

**I. Work Performed by Pontiac Police and Fire on Behalf of the Class**

3. Pontiac Police and Fire has carefully monitored and supervised the prosecution of this Action. Pontiac Police and Fire has received regular periodic status reports from its counsel, Bernstein Litowitz Berger & Grossmann LLP and Sullivan, Ward, Asher & Patton, P.C., on case developments, and participated in discussions with its counsel concerning the prosecution of the Action, the strengths of and risks to the claims asserted, and potential settlement of the Direct Lending claims. In particular,

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<sup>2</sup> The Pontiac Police and Fire System and the Pontiac Police and Fire Board are collectively referred to herein as “Pontiac Police and Fire”.

throughout the course of this Action, Pontiac Police and Fire has, among other things: (a) conferred with its counsel on, and approved, the overall strategies for the prosecution of the Action; (b) responded to discovery requests; (c) received periodic reports from its counsel concerning the work being done; and (d) evaluated and approved the proposed Settlement.

**II. Pontiac Police and Fire Strongly Endorses Approval of the Settlement by the Court**

4. Based on its involvement throughout the prosecution of the Action, Pontiac Police and Fire believes that the proposed Settlement is fair, reasonable and adequate to the Class. Pontiac Police and Fire believes that the proposed Settlement represents a substantial recovery for the Class, particularly in light of the substantial risks of continuing to prosecute the Direct Lending claims at issue in this case. Therefore, Pontiac Police and Fire strongly endorses approval of the Settlement by the Court.

**III. Pontiac Police and Fire Supports Co-Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses**

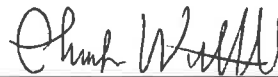
5. Pontiac Police and Fire believes that Co-Lead Counsel's request for an award of attorneys' fees in the amount of 18% of the Settlement Fund is fair and reasonable in light of the work performed by plaintiffs' counsel on behalf of the Class. Pontiac Police and Fire has evaluated the fee request by considering the work performed by plaintiffs' counsel, and by considering the substantial recovery obtained for the Class. Pontiac Police and Fire further believes that the litigation expenses being requested for reimbursement to plaintiffs' counsel are reasonable, and represent costs and expenses necessary for the prosecution of the Action. Based on the foregoing, and consistent with

its obligation to the Class to obtain the best result at the most efficient cost, Pontiac Police and Fire fully supports Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses.

**IV. Conclusion**

6. In conclusion, Pontiac Police and Fire strongly endorses the Settlement as fair, reasonable and adequate, and believes it represents a substantial recovery for the Class. Pontiac Police and Fire further supports Co-Lead Counsel's attorneys' fee and litigation expense reimbursement application, and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Class and the risks of litigating the settled claims. Accordingly, Pontiac Police and Fire respectfully requests that the Court approve (i) Settling Plaintiffs' motion for final approval of proposed Settlement; and (ii) Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses.

I declare under penalty of perjury that the foregoing is true and correct, and that I have authority to execute this Declaration on behalf of Pontiac Police and Fire.



\_\_\_\_\_  
Chuck Wytrychowski  
Plan Manager  
City of Pontiac Police and  
Fire Retirement System

Executed this 29 day of Nov, 2016

W1912129.DOC

# **EXHIBIT 4**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

Magistrate Judge Susan E. Cox

**DECLARATION OF WALTER MOORE, CHAIRMAN OF THE CITY OF PONTIAC  
GENERAL EMPLOYEES' RETIREMENT SYSTEM, IN SUPPORT OF (I)  
SETTLING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT, AND (II) CO-LEAD COUNSEL'S MOTION FOR AN AWARD OF  
ATTORNEYS' FEES AND REIMBURSEMENT  
OF LITIGATION EXPENSES**

I, Walter Moore, hereby declare under penalty of perjury as follows:

1. I am the Chairman of the City of Pontiac General Employees' Retirement System (the "Pontiac General Employees' Retirement System").<sup>1</sup> The Pontiac General Employees' Retirement System is a public pension plan and trust established for the exclusive benefit of general employees of the City of Pontiac. The Pontiac General Employees' Retirement System serves over 1,353 members and has over \$460,624,322

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<sup>1</sup> Unless otherwise defined herein, any capitalized terms shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement of Class Action dated July 25, 2016 (the "Stipulation"). (Doc. 573-1.)

million in assets under management. The Board of Trustees of the Pontiac General Employees' Retirement System (the "Pontiac General Employees' Retirement Board"), which has the authority to administer the Pontiac General Employees' Retirement System and to bring legal proceedings on its behalf, is one of the Settling Plaintiffs in the above-captioned action (the "Action").<sup>2</sup>

2. I submit this Declaration in support of (i) Settling Plaintiffs' motion for final approval of the proposed settlement of remaining claims asserted in the Action (the "Settlement"), which will resolve the Direct Lending claims of Class Members against Defendants; and (ii) Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses. The following statements are based on my personal knowledge as well as information provided to me by other employees of Pontiac General Employees' Retirement System who have been directly involved in monitoring and overseeing the prosecution of the Action.

**I. Work Performed by Pontiac General Employees' Retirement System on Behalf of the Class**

3. Pontiac General Employees' Retirement System has carefully monitored and supervised the prosecution of this Action. Pontiac General Employees' Retirement System has received regular periodic status reports from its counsel, Bernstein Litowitz Berger & Grossmann LLP and Sullivan, Ward, Asher & Patton, P.C., on case developments, and participated in discussions with its counsel concerning the prosecution of the Action, the

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<sup>2</sup> The Pontiac General Employees' Retirement System and the Pontiac General Employees' Retirement Board are collectively referred to herein as "Pontiac General Employees' Retirement System".

strengths of and risks to the claims asserted, and potential settlement of the Direct Lending claims. In particular, throughout the course of this Action, Pontiac General Employees' Retirement System has, among other things: (a) conferred with its counsel on, and approved, the overall strategies for the prosecution of the Action; (b) responded to discovery requests; (c) received periodic reports from its counsel concerning the work being done; and (d) evaluated and approved the proposed Settlement.

**II. Pontiac General Employees' Retirement System Strongly Endorses Approval of the Settlement by the Court**

4. Based on its involvement throughout the prosecution of the Action, Pontiac General Employees' Retirement System believes that the proposed Settlement is fair, reasonable and adequate to the Class. Pontiac General Employees' Retirement System believes that the proposed Settlement represents a substantial recovery for the Class, particularly in light of the substantial risks of continuing to prosecute the Direct Lending claims at issue in this case. Therefore, Pontiac General Employees' Retirement System strongly endorses approval of the Settlement by the Court.

**III. Pontiac General Employees' Retirement System Supports Co-Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses**

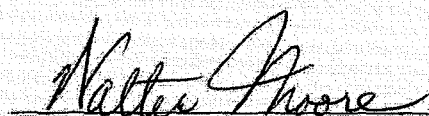
5. Pontiac General Employees' Retirement System believes that Co-Lead Counsel's request for an award of attorneys' fees in the amount of 18% of the Settlement Fund is fair and reasonable in light of the work performed by plaintiffs' counsel on behalf of the Class. Pontiac General Employees' Retirement System has evaluated the fee request by considering the work performed by plaintiffs' counsel, and by considering the substantial recovery obtained for the Class. Pontiac General Employees' General Retirement System further believes that the litigation expenses being requested for reimbursement to plaintiffs'

counsel are reasonable, and represent costs and expenses necessary for the prosecution of the Action. Based on the foregoing, and consistent with its obligation to the Class to obtain the best result at the most efficient cost, Pontiac General Employees' Retirement System fully supports Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses.

#### IV. Conclusion

6. In conclusion, Pontiac General Employees' Retirement System strongly endorses the Settlement as fair, reasonable and adequate, and believes it represents a substantial recovery for the Class. Pontiac General Employees' Retirement System further supports Co-Lead Counsel's attorneys' fee and litigation expense reimbursement application, and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Class and the risks of litigating the settled claims. Accordingly, Pontiac General Employees' Retirement System respectfully requests that the Court approve (i) Settling Plaintiffs' motion for final approval of proposed Settlement; and (ii) Co-Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses.

I declare under penalty of perjury that the foregoing is true and correct, and that I have authority to execute this Declaration on behalf of Pontiac General Employees' Retirement System.



Walter Moore  
Chairman

City of Pontiac General  
Employees' Retirement System

Executed this 5<sup>th</sup> day of Dec., 2016

W1912218.DOC



# **EXHIBIT 5A**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

**DECLARATION OF AVI JOSEFSON IN SUPPORT OF  
CO-LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND  
REIMBURSEMENT OF LITIGATION EXPENSES FILED ON BEHALF OF  
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**

Avi Josefson declares as follows:

1. I am a partner in the law firm of Bernstein Litowitz Berger & Grossmann LLP. My firm served as Co-Lead Counsel for the Class in connection with the litigation of the Direct Lending claims asserted in the above-captioned action (the "Action"). I submit this declaration in support of Co-Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action.
2. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the

amount of time spent by each attorney and professional support staff employee of my firm who, from January 14, 2014 through and including July 25, 2016, billed ten or more hours to the prosecution of the Direct Lending claims (“Total Hours”), and the lodestar calculation for those individuals based on their current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

3. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit 1 are the same as the regular rates currently charged for their services in non-contingent matters and/or which have been accepted in other securities or shareholder litigation.

4. The Total Hours expended on this Action by my firm is 3,135.75. The total lodestar for my firm based on the Total Hours billed is \$1,648,203.75, consisting of \$1,415,866.25 for attorneys’ time and \$232,337.50 for professional support staff time.

5. My firm’s lodestar figures are based upon the firm’s billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm’s billing rates.

6. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$330,611.92 in expenses incurred in connection with the prosecution of the Direct Lending claims in this Action from January 14, 2014 through and including November 30, 2016.

7. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other

source materials and are an accurate record of the expenses incurred.

8. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on December 7, 2016.



---

Avi Josefson

#1043083

**EXHIBIT 1***La. Firefighters' Ret. Sys., et al. v. N. Trust Invs., N.A., et al.*, No. 09-7203**BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP****TIME REPORT**

January 14, 2014 through and including July 25, 2016

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Partners</b>			
Avi Josefson	496.50	\$800.00	\$397,200.00
Gerald Silk	23.00	945.00	21,735.00
Katherine Sinderson	43.00	700.00	30,100.00
<b>Associates</b>			
Rebecca Boon	1,012.50	600.00	607,500.00
John Mills	124.50	600.00	74,700.00
David Schwartz	180.00	575.00	103,500.00
<b>Staff Attorneys</b>			
Alex Bates	265.75	395.00	104,971.25
Abbie Pugh	224.00	340.00	76,160.00
<b>Paralegals</b>			
Yvette Badillo	111.00	285.00	31,635.00
Virgilio Soler, Jr.	569.50	310.00	176,545.00
<b>Litigation Support</b>			
Babatunde Pedro	71.50	275.00	19,662.50
Andrea R. Webster	14.50	310.00	4,495.00
<b>TOTALS</b>	<b>3,135.75</b>		<b>\$1,648,203.75</b>

**EXHIBIT 2***La. Firefighters' Ret. Sys., et al. v. N. Trust Invs., N.A., et al.*, No. 09-7203**BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP****EXPENSE REPORT****January 14, 2014 through and including November 30, 2016**

<b>CATEGORY</b>	<b>AMOUNT</b>
On-Line Legal Research	\$54,095.92
On-Line Factual Research	9,623.53
Document Management/Litigation Support	9,714.35
Telephone	455.40
Postage & Express Mail	4,132.23
Internal Copying	1,565.00
Outside Copying	1,429.11
Out of Town Travel	1,793.16
Court Reporters and Transcripts	9,852.57
Experts	236,647.55
Mediation Fees	1,303.10
<b>TOTAL EXPENSES:</b>	<b>\$330,611.92</b>

**EXHIBIT 3**

[FIRM RESUME AND BIOGRAPHIES]



Bernstein Litowitz Berger & Grossmann LLP

Attorneys at Law

# Firm Resume

## **New York**

1251 Avenue of the Americas, 44th Floor  
New York, NY 10020  
Tel: 212-554-1400  
Fax: 212-554-1444

## **California**

12481 High Bluff Drive, Suite 300  
San Diego, CA 92130  
Tel: 858-793-0070  
Fax: 858-793-0323

## **Louisiana**

2727 Prytania Street, Suite 14  
New Orleans, LA 70130  
Tel: 504-899-2339  
Fax: 504-899-2342

## **Illinois**

875 North Michigan Avenue, Suite 3100  
Chicago, IL 60611  
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Since our founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has obtained many of the largest monetary recoveries in history – over \$30 billion on behalf of investors. Unique among our peers, the firm has obtained the largest settlements ever agreed to by public companies related to securities fraud, including four of the ten largest in history. Working with our clients, we have also used the litigation process to achieve precedent-setting reforms which have increased market transparency, held wrongdoers accountable and improved corporate business practices in groundbreaking ways.

## FIRM OVERVIEW

Bernstein Litowitz Berger & Grossmann LLP (“BLB&G”), a national law firm with offices located in New York, California, Louisiana and Illinois, prosecutes class and private actions on behalf of individual and institutional clients. The firm’s litigation practice areas include securities class and direct actions in federal and state courts; corporate governance and shareholder rights litigation, including claims for breach of fiduciary duty and proxy violations; mergers and acquisitions and transactional litigation; alternative dispute resolution; distressed debt and bankruptcy; civil rights and employment discrimination; consumer class actions and antitrust. We also handle, on behalf of major institutional clients and lenders, more general complex commercial litigation involving allegations of breach of contract, accountants’ liability, breach of fiduciary duty, fraud, and negligence.

We are the nation’s leading firm in representing institutional investors in securities fraud class action litigation. The firm’s institutional client base includes the New York State Common Retirement Fund; the California Public Employees’ Retirement System (CalPERS); the Ontario Teachers’ Pension Plan Board (the largest public pension funds in North America); the Los Angeles County Employees Retirement Association (LACERA); the Chicago Municipal, Police and Labor Retirement Systems; the Teacher Retirement System of Texas; the Arkansas Teacher Retirement System; Forsta AP-fonden (“AP1”); Fjarde AP-fonden (“AP4”); the Florida State Board of Administration; the Public Employees’ Retirement System of Mississippi; the New York State Teachers’ Retirement System; the Ohio Public Employees Retirement System; the State Teachers Retirement System of Ohio; the Oregon Public Employees Retirement System; the Virginia Retirement System; the Louisiana School, State, Teachers and Municipal Police Retirement Systems; the Public School Teachers’ Pension and Retirement Fund of Chicago; the New Jersey Division of Investment of the Department of the Treasury; TIAA-CREF and other private institutions; as well as numerous other public and Taft-Hartley pension entities.

## MORE TOP SECURITIES RECOVERIES

Since its founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has litigated some of the most complex cases in history and has obtained over \$30 billion on behalf of investors. Unique among its peers, the firm has negotiated the largest settlements ever agreed to by public companies related to securities fraud, and obtained many of the largest securities recoveries in history (including 5 of the top 10):

- *In re WorldCom, Inc. Securities Litigation* – \$6.19 billion recovery
- *In re Cendant Corporation Securities Litigation* – \$3.3 billion recovery
- *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation* – \$2.43 billion recovery
- *In re Nortel Networks Corporation Securities Litigation* (“Nortel II”) – \$1.07 billion recovery
- *In re Merck & Co., Inc. Securities Litigation* – \$1.06 billion recovery
- *In re McKesson HBOC, Inc. Securities Litigation* – \$1.05 billion recovery

For over a decade, Securities Class Action Services (SCAS – a division of ISS Governance) has compiled and published data on securities litigation recoveries and the law firms prosecuting the cases. BLB&G has been at or near the top of their rankings every year – often with the highest total recoveries, the highest settlement average, or both.

BLB&G also eclipses all competitors on SCAS’s “Top 100 Settlements” report, having recovered 37% of all the settlement dollars represented in the report (nearly \$23 billion), and having prosecuted nearly a third of all the cases on the list (29 of 100).

## GIVING SHAREHOLDERS A VOICE AND CHANGING BUSINESS PRACTICES FOR THE BETTER

BLB&G was among the first law firms ever to obtain meaningful corporate governance reforms through litigation. In courts throughout the country, we prosecute shareholder class and derivative actions, asserting claims for breach of fiduciary duty and proxy violations wherever the conduct of corporate officers and/or directors, as well as M&A transactions, seek to deprive shareholders of fair value, undermine shareholder voting rights, or allow management to profit at the expense of shareholders.

We have prosecuted seminal cases establishing precedents which have increased market transparency, held wrongdoers accountable, addressed issues in the boardroom and executive suite, challenged unfair deals, and improved corporate business practices in groundbreaking ways.

From setting new standards of director independence, to restructuring board practices in the wake of persistent illegal conduct; from challenging the improper use of defensive measures and deal protections for management’s benefit, to confronting stock options backdating abuses and other self-dealing by executives; we have confronted a variety of questionable, unethical and proliferating corporate practices. Seeking to reform faulty management structures and address breaches of fiduciary duty by corporate officers and directors, we have obtained unprecedented victories on behalf of shareholders seeking to improve governance and protect the shareholder franchise.

## ADVOCACY FOR VICTIMS OF CORPORATE WRONGDOING

While BLB&G is widely recognized as one of the leading law firms worldwide advising institutional investors on issues related to corporate governance, shareholder rights, and securities litigation, we have also prosecuted some of the most significant employment discrimination, civil rights and consumer protection cases on record. Equally important, the firm has advanced novel and socially beneficial principles by developing important new law in the areas in which we litigate.



The firm served as co-lead counsel on behalf of Texaco's African-American employees in *Roberts v. Texaco Inc.*, which resulted in a recovery of \$176 million, the largest settlement ever in a race discrimination case. The creation of a Task Force to oversee Texaco's human resources activities for five years was unprecedented and served as a model for public companies going forward.

In the consumer field, the firm has gained a nationwide reputation for vigorously protecting the rights of individuals and for achieving exceptional settlements. In several instances, the firm has obtained recoveries for consumer classes that represented the entirety of the class's losses – an extraordinary result in consumer class cases.

## PRACTICE AREAS

### SECURITIES FRAUD LITIGATION

Securities fraud litigation is the cornerstone of the firm's litigation practice. Since its founding, the firm has had the distinction of having tried and prosecuted many of the most high-profile securities fraud class actions in history, recovering billions of dollars and obtaining unprecedented corporate governance reforms on behalf of our clients. BLB&G continues to play a leading role in major securities litigation pending in federal and state courts, and the firm remains one of the nation's leaders in representing institutional investors in securities fraud class and derivative litigation.

The firm also pursues direct actions in securities fraud cases when appropriate. By selectively opting out of certain securities class actions, we seek to resolve our clients' claims efficiently and for substantial multiples of what they might otherwise recover from related class action settlements.

The attorneys in the securities fraud litigation practice group have extensive experience in the laws that regulate the securities markets and in the disclosure requirements of corporations that issue publicly traded securities. Many of the attorneys in this practice group also have accounting backgrounds. The group has access to state-of-the-art, online financial wire services and databases, which enable it to instantaneously investigate any potential securities fraud action involving a public company's debt and equity securities.

### CORPORATE GOVERNANCE AND SHAREHOLDERS' RIGHTS

The Corporate Governance and Shareholders' Rights Practice Group prosecutes derivative actions, claims for breach of fiduciary duty, and proxy violations on behalf of individual and institutional investors in state and federal courts throughout the country. The group has obtained unprecedented victories on behalf of shareholders seeking to improve corporate governance and protect the shareholder franchise, prosecuting actions challenging numerous highly publicized corporate transactions which violated fair process and fair price, and the applicability of the business judgment rule. We have also addressed issues of corporate waste, shareholder voting rights claims, and executive compensation. As a result of the firm's high-profile and widely recognized capabilities, the corporate governance practice group is increasingly in demand by institutional investors who are exercising a more assertive voice with corporate boards regarding corporate governance issues and the board's accountability to shareholders.

The firm is actively involved in litigating numerous cases in this area of law, an area that has become increasingly important in light of efforts by various market participants to buy companies from their public shareholders "on the cheap."

### EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS

The Employment Discrimination and Civil Rights Practice Group prosecutes class and multi-plaintiff actions, and other high-impact litigation against employers and other societal institutions that violate federal or state employment, anti-discrimination, and civil rights laws. The practice group represents diverse clients on a wide range of issues including Title VII actions: race, gender, sexual orientation and age discrimination suits; sexual harassment, and "glass ceiling" cases in which otherwise qualified employees are passed over for promotions to managerial or executive positions.

Bernstein Litowitz Berger & Grossmann LLP is committed to effecting positive social change in the workplace and in society. The practice group has the necessary financial and human resources to ensure that the class action approach to discrimination and civil rights issues is successful. This litigation method serves to empower employees and other civil rights victims, who are usually discouraged from pursuing litigation because of personal financial limitations, and offers the potential for effecting the greatest positive change for the greatest number of people affected by discriminatory practice in the workplace.

## GENERAL COMMERCIAL LITIGATION AND ALTERNATIVE DISPUTE RESOLUTION

The General Commercial Litigation practice group provides contingency fee representation in complex business litigation and has obtained substantial recoveries on behalf of investors, corporations, bankruptcy trustees, creditor committees and other business entities. We have faced down powerful and well-funded law firms and defendants – and consistently prevailed. However, not every dispute is best resolved through the courts. In such cases, BLB&G Alternative Dispute practitioners offer clients an accomplished team and a creative venue in which to resolve conflicts outside of the litigation process. BLB&G has extensive experience – and a marked record of successes – in ADR practice. For example, in the wake of the credit crisis, we successfully represented numerous former executives of a major financial institution in arbitrations relating to claims for compensation. Our attorneys have led complex business-to-business arbitrations and mediations domestically and abroad representing clients before all the major arbitration tribunals, including the American Arbitration Association (AAA), FINRA, JAMS, International Chamber of Commerce (ICC) and the London Court of International Arbitration.

## DISTRESSED DEBT AND BANKRUPTCY CREDITOR NEGOTIATION

The BLB&G Distressed Debt and Bankruptcy Creditor Negotiation Group has obtained billions of dollars through litigation on behalf of bondholders and creditors of distressed and bankrupt companies, as well as through third-party litigation brought by bankruptcy trustees and creditors' committees against auditors, appraisers, lawyers, officers and directors, and other defendants who may have contributed to client losses. As counsel, we advise institutions and individuals nationwide in developing strategies and tactics to recover assets presumed lost as a result of bankruptcy. Our record in this practice area is characterized by extensive trial experience in addition to completion of successful settlements.

## CONSUMER ADVOCACY

The Consumer Advocacy Practice Group at Bernstein Litowitz Berger & Grossmann LLP prosecutes cases across the entire spectrum of consumer rights, consumer fraud, and consumer protection issues. The firm represents victimized consumers in state and federal courts nationwide in individual and class action lawsuits that seek to provide consumers and purchasers of defective products with a means to recover their damages. The attorneys in this group are well versed in the vast array of laws and regulations that govern consumer interests and are aggressive, effective, court-tested litigators. The Consumer Practice Advocacy Group has recovered hundreds of millions of dollars for millions of consumers throughout the country. Most notably, in a number of cases, the firm has obtained recoveries for the class that were the entirety of the potential damages suffered by the consumer. For example, in actions against MCI and Empire Blue Cross, the firm recovered all of the damages suffered by the class. The group achieved its successes by advancing innovative claims and theories of liabilities, such as obtaining decisions in Pennsylvania and Illinois appellate courts that adopted a new theory of consumer damages in mass marketing cases. Bernstein Litowitz Berger & Grossmann LLP is, thus, able to lead the way in protecting the rights of consumers.

## THE COURTS SPEAK

Throughout the firm’s history, many courts have recognized the professional excellence and diligence of the firm and its members. A few examples are set forth below.

### ***IN RE WORLD COM, INC. SECURITIES LITIGATION***

**THE HONORABLE DENISE COTE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

*“I have the utmost confidence in plaintiffs’ counsel...they have been doing a superb job.... The Class is extraordinarily well represented in this litigation.”*

*“The magnitude of this settlement is attributable in significant part to Lead Counsel’s advocacy and energy.... The quality of the representation given by Lead Counsel...has been superb...and is unsurpassed in this Court’s experience with plaintiffs’ counsel in securities litigation.”*

*“Lead Counsel has been energetic and creative. . . . Its negotiations with the Citigroup Defendants have resulted in a settlement of historic proportions.”*

### ***IN RE CLARENT CORPORATION SECURITIES LITIGATION***

**THE HONORABLE CHARLES R. BREYER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA**

*“It was the best tried case I’ve witnessed in my years on the bench . . .”*

*“[A]n extraordinarily civilized way of presenting the issues to you [the jury]. . . . We’ve all been treated to great civility and the highest professional ethics in the presentation of the case....”*

*“These trial lawyers are some of the best I’ve ever seen.”*

### ***LANDRY’S RESTAURANTS, INC. SHAREHOLDER LITIGATION***

**VICE CHANCELLOR J. TRAVIS LASTER OF THE DELAWARE COURT OF CHANCERY**

*“I do want to make a comment again about the excellent efforts . . . put into this case. . . . This case, I think, shows precisely the type of benefits that you can achieve for stockholders and how representative litigation can be a very important part of our corporate governance system . . . you hold up this case as an example of what to do.”*

### ***MCCALL V. SCOTT (COLUMBIA/HCA DERIVATIVE LITIGATION)***

**THE HONORABLE THOMAS A. HIGGINS OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE**

*“Counsel’s excellent qualifications and reputations are well documented in the record, and they have litigated this complex case adeptly and tenaciously throughout the six years it has been pending. They assumed an enormous risk and have shown great patience by taking this case on a contingent basis, and despite an early setback they have persevered and brought about not only a large cash settlement but sweeping corporate reforms that may be invaluable to the beneficiaries.”*

## RECENT ACTIONS & SIGNIFICANT RECOVERIES

Bernstein Litowitz Berger & Grossmann LLP is counsel in many diverse nationwide class and individual actions and has obtained many of the largest and most significant recoveries in history. Some examples from our practice groups include:

### SECURITIES CLASS ACTIONS

**CASE:** *IN RE WORLDCom, INC. SECURITIES LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** \$6.19 billion securities fraud class action recovery – the second largest in history; unprecedented recoveries from Director Defendants.

**CASE SUMMARY:** Investors suffered massive losses in the wake of the financial fraud and subsequent bankruptcy of former telecom giant WorldCom, Inc. This litigation alleged that WorldCom and others disseminated false and misleading statements to the investing public regarding its earnings and financial condition in violation of the federal securities and other laws. It further alleged a nefarious relationship between Citigroup subsidiary Salomon Smith Barney and WorldCom, carried out primarily by Salomon employees involved in providing investment banking services to WorldCom, and by WorldCom's former CEO and CFO. As Court-appointed Co-Lead Counsel representing Lead Plaintiff the **New York State Common Retirement Fund**, we obtained unprecedented settlements totaling more than \$6 billion from the Investment Bank Defendants who underwrote WorldCom bonds, including a \$2.575 billion cash settlement to settle all claims against the Citigroup Defendants. On the eve of trial, the 13 remaining "Underwriter Defendants," including J.P. Morgan Chase, Deutsche Bank and Bank of America, agreed to pay settlements totaling nearly \$3.5 billion to resolve all claims against them. Additionally, the day before trial was scheduled to begin, all of the former WorldCom Director Defendants had agreed to pay over \$60 million to settle the claims against them. An unprecedented first for outside directors, \$24.75 million of that amount came out of the pockets of the individuals – 20% of their collective net worth. *The Wall Street Journal*, in its coverage, profiled the settlement as literally having "shaken Wall Street, the audit profession and corporate boardrooms." After four weeks of trial, Arthur Andersen, WorldCom's former auditor, settled for \$65 million. Subsequent settlements were reached with the former executives of WorldCom, and then with Andersen, bringing the total obtained for the Class to over \$6.19 billion.

**CASE:** *IN RE CENDANT CORPORATION SECURITIES LITIGATION*

**COURT:** United States District Court for the District of New Jersey

**HIGHLIGHTS:** \$3.3 billion securities fraud class action recovery – the third largest in history; significant corporate governance reforms obtained.

**CASE SUMMARY:** The firm was Co-Lead Counsel in this class action against Cendant Corporation, its officers and directors and Ernst & Young (E&Y), its auditors, for their role in disseminating materially false and misleading financial statements concerning the company's revenues, earnings and expenses for its 1997 fiscal year. As a result of company-wide accounting irregularities, Cendant restated its financial results for its 1995, 1996 and 1997 fiscal years and all fiscal quarters therein. Cendant agreed to settle the action for \$2.8 billion to adopt some of the most extensive corporate governance changes in history. E&Y settled for \$335 million. These settlements remain the largest sums ever recovered from a public company and a public accounting firm through securities class action litigation. BLB&G represented Lead Plaintiffs **CalPERS – the California Public Employees' Retirement System**, the **New York State Common Retirement Fund** and the **New York City Pension Funds**, the three largest public pension funds in America, in this action.





**CASE:** *IN RE BANK OF AMERICA CORP. SECURITIES, DERIVATIVE, AND EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) LITIGATION*

**COURT:** **United States District Court for the Southern District of New York**

**HIGHLIGHTS:** \$2.425 billion in cash; significant corporate governance reforms to resolve all claims. This recovery is by far the largest shareholder recovery related to the subprime meltdown and credit crisis; the single largest securities class action settlement ever resolving a Section 14(a) claim – the federal securities provision designed to protect investors against misstatements in connection with a proxy solicitation; the largest ever funded by a single corporate defendant for violations of the federal securities laws; the single largest settlement of a securities class action in which there was neither a financial restatement involved nor a criminal conviction related to the alleged misconduct; and one of the 10 largest securities class action recoveries in history.

**DESCRIPTION:** The firm represented Co-Lead Plaintiffs the **State Teachers Retirement System of Ohio**, the **Ohio Public Employees Retirement System**, and the **Teacher Retirement System of Texas** in this securities class action filed on behalf of shareholders of Bank of America Corporation (“BAC”) arising from BAC’s 2009 acquisition of Merrill Lynch & Co., Inc. The action alleges that BAC, Merrill Lynch, and certain of the companies’ current and former officers and directors violated the federal securities laws by making a series of materially false statements and omissions in connection with the acquisition. These violations included the alleged failure to disclose information regarding billions of dollars of losses which Merrill had suffered before the BAC shareholder vote on the proposed acquisition, as well as an undisclosed agreement allowing Merrill to pay billions in bonuses before the acquisition closed despite these losses. Not privy to these material facts, BAC shareholders voted to approve the acquisition.

**CASE:** *IN RE NORTEL NETWORKS CORPORATION SECURITIES LITIGATION (“NORTEL II”)*

**COURT:** **United States District Court for the Southern District of New York**

**HIGHLIGHTS:** Over \$1.07 billion in cash and common stock recovered for the class.

**DESCRIPTION:** This securities fraud class action charged Nortel Networks Corporation and certain of its officers and directors with violations of the Securities Exchange Act of 1934, alleging that the Defendants knowingly or recklessly made false and misleading statements with respect to Nortel’s financial results during the relevant period. BLB&G clients the **Ontario Teachers’ Pension Plan Board** and the **Treasury of the State of New Jersey and its Division of Investment** were appointed as Co-Lead Plaintiffs for the Class in one of two related actions (Nortel II), and BLB&G was appointed Lead Counsel for the Class. In a historic settlement, Nortel agreed to pay \$2.4 billion in cash and Nortel common stock (all figures in US dollars) to resolve both matters. Nortel later announced that its insurers had agreed to pay \$228.5 million toward the settlement, bringing the total amount of the global settlement to approximately \$2.7 billion, and the total amount of the Nortel II settlement to over \$1.07 billion.

**CASE:** *IN RE MERCK & CO., INC. SECURITIES LITIGATION*

**COURT:** **United States District Court, District of New Jersey**

**HIGHLIGHTS:** \$1.06 billion recovery for the class.

**DESCRIPTION:** This case arises out of misrepresentations and omissions concerning life-threatening risks posed by the “blockbuster” Cox-2 painkiller Vioxx, which Merck withdrew from the market in 2004. In January 2016, BLB&G achieved a \$1.062 billion settlement on the eve of trial after more than 12 years of hard-fought litigation that included a successful decision at the United States Supreme Court. This settlement is the second largest recovery ever obtained in the Third Circuit, one of the top 10 securities recoveries of all time, and the largest securities recovery ever achieved against a pharmaceutical company. BLB&G represented Lead Plaintiff the **Public Employees’ Retirement System of Mississippi**.



**CASE:** *IN RE MCKESSON HBOC, INC. SECURITIES LITIGATION*

**COURT:** United States District Court for the Northern District of California

**HIGHLIGHTS:** \$1.05 billion recovery for the class.

**DESCRIPTION:** This securities fraud litigation was filed on behalf of purchasers of HBOC, McKesson and McKesson HBOC securities, alleging that Defendants misled the investing public concerning HBOC's and McKesson HBOC's financial results. On behalf of Lead Plaintiff the **New York State Common Retirement Fund**, BLB&G obtained a \$960 million settlement from the company; \$72.5 million in cash from Arthur Andersen; and, on the eve of trial, a \$10 million settlement from Bear Stearns & Co. Inc., with total recoveries reaching more than \$1 billion.

**CASE:** *IN RE LEHMAN BROTHERS EQUITY/DEBT SECURITIES LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** \$735 million in total recoveries.

**DESCRIPTION:** Representing the **Government of Guam Retirement Fund**, BLB&G successfully prosecuted this securities class action arising from Lehman Brothers Holdings Inc.'s issuance of billions of dollars in offerings of debt and equity securities that were sold using offering materials that contained untrue statements and missing material information.

After four years of intense litigation, Lead Plaintiffs achieved a total of \$735 million in recoveries consisting of: a \$426 million settlement with underwriters of Lehman securities offerings; a \$90 million settlement with former Lehman directors and officers; a \$99 million settlement that resolves claims against Ernst & Young, Lehman's former auditor (considered one of the top 10 auditor settlements ever achieved); and a \$120 million settlement that resolves claims against UBS Financial Services, Inc. This recovery is truly remarkable not only because of the difficulty in recovering assets when the issuer defendant is bankrupt, but also because no financial results were restated, and that the auditors never disavowed the statements.

**CASE:** *HEALTHSOUTH CORPORATION BONDHOLDER LITIGATION*

**COURT:** United States District Court for the Northern District of Alabama

**HIGHLIGHTS:** \$804.5 million in total recoveries.

**DESCRIPTION:** In this litigation, BLB&G was the appointed Co-Lead Counsel for the bond holder class, representing Lead Plaintiff the **Retirement Systems of Alabama**. This action arose from allegations that Birmingham, Alabama based HealthSouth Corporation overstated its earnings at the direction of its founder and former CEO Richard Scrusby. Subsequent revelations disclosed that the overstatement actually exceeded over \$2.4 billion, virtually wiping out all of HealthSouth's reported profits for the prior five years. A total recovery of \$804.5 million was obtained in this litigation through a series of settlements, including an approximately \$445 million settlement for shareholders and bondholders, a \$100 million in cash settlement from UBS AG, UBS Warburg LLC, and individual UBS Defendants (collectively, "UBS"), and \$33.5 million in cash from the company's auditor. The total settlement for injured HealthSouth bond purchasers exceeded \$230 million, recouping over a third of bond purchaser damages.

**CASE:** *IN RE CITIGROUP, INC. BOND ACTION LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** \$730 million cash recovery; second largest recovery in a litigation arising from the financial crisis.

**DESCRIPTION:** In the years prior to the collapse of the subprime mortgage market, Citigroup issued 48 offerings of preferred stock and bonds. This securities fraud class action was filed on behalf of purchasers of



Citigroup bonds and preferred stock alleging that these offerings contained material misrepresentations and omissions regarding Citigroup's exposure to billions of dollars in mortgage-related assets, the loss reserves for its portfolio of high-risk residential mortgage loans, and the credit quality of the risky assets it held in off-balance sheet entities known as "structured investment vehicles." After protracted litigation lasting four years, we obtained a \$730 million cash recovery – the second largest securities class action recovery in a litigation arising from the financial crisis, and the second largest recovery ever in a securities class action brought on behalf of purchasers of debt securities. As Lead Bond Counsel for the Class, BLB&G represented Lead Bond Plaintiffs Minneapolis Firefighters' Relief Association, Louisiana Municipal Police Employees' Retirement System, and Louisiana Sheriffs' Pension and Relief Fund.

**CASE:** *IN RE WASHINGTON PUBLIC POWER SUPPLY SYSTEM LITIGATION*

**COURT:** **United States District Court for the District of Arizona**

**HIGHLIGHTS:** Over \$750 million – the largest securities fraud settlement ever achieved at the time.

**DESCRIPTION:** BLB&G was appointed Chair of the Executive Committee responsible for litigating the action on behalf of the class in this action. The case was litigated for over seven years, and involved an estimated 200 million pages of documents produced in discovery; the depositions of 285 fact witnesses and 34 expert witnesses; more than 25,000 introduced exhibits; six published district court opinions; seven appeals or attempted appeals to the Ninth Circuit; and a three-month jury trial, which resulted in a settlement of over \$750 million – then the largest securities fraud settlement ever achieved.

**CASE:** *IN RE SCHERING-PLOUGH CORPORATION/ENHANCE SECURITIES LITIGATION; IN RE MERCK & CO., INC. VYTORIN/ZETIA SECURITIES LITIGATION*

**COURT:** **United States District Court for the District of New Jersey**

**HIGHLIGHTS:** \$688 million in combined settlements (Schering-Plough settled for \$473 million; Merck settled for \$215 million) in this coordinated securities fraud litigations filed on behalf of investors in Merck and Schering-Plough.

**DESCRIPTION:** After nearly five years of intense litigation, just days before trial, BLB&G resolved the two actions against Merck and Schering-Plough, which stemmed from claims that Merck and Schering artificially inflated their market value by concealing material information and making false and misleading statements regarding their blockbuster anti-cholesterol drugs Zetia and Vytorin. Specifically, we alleged that the companies knew that their "ENHANCE" clinical trial of Vytorin (a combination of Zetia and a generic) demonstrated that Vytorin was no more effective than the cheaper generic at reducing artery thickness. The companies nonetheless championed the "benefits" of their drugs, attracting billions of dollars of capital. When public pressure to release the results of the ENHANCE trial became too great, the companies reluctantly announced these negative results, which we alleged led to sharp declines in the value of the companies' securities, resulting in significant losses to investors. The combined \$688 million in settlements (Schering-Plough settled for \$473 million; Merck settled for \$215 million) is the second largest securities recovery ever in the Third Circuit, among the top 25 settlements of all time, and among the ten largest recoveries ever in a case where there was no financial restatement. BLB&G represented Lead Plaintiffs **Arkansas Teacher Retirement System**, the **Public Employees' Retirement System of Mississippi**, and the **Louisiana Municipal Police Employees' Retirement System**.

**CASE:** *IN RE LUCENT TECHNOLOGIES, INC. SECURITIES LITIGATION*

**COURT:** **United States District Court for the District of New Jersey**



**HIGHLIGHTS:** \$667 million in total recoveries; the appointment of BLB&G as Co-Lead Counsel is especially noteworthy as it marked the first time since the 1995 passage of the Private Securities Litigation Reform Act that a court reopened the lead plaintiff or lead counsel selection process to account for changed circumstances, new issues and possible conflicts between new and old allegations.

**DESCRIPTION:** BLB&G served as Co-Lead Counsel in this securities class action, representing Lead Plaintiffs the **Parnassus Fund, Teamsters Locals 175 & 505 D&P Pension Trust, Anchorage Police and Fire Retirement System** and the **Louisiana School Employees' Retirement System**. The complaint accused Lucent of making false and misleading statements to the investing public concerning its publicly reported financial results and failing to disclose the serious problems in its optical networking business. When the truth was disclosed, Lucent admitted that it had improperly recognized revenue of nearly \$679 million in fiscal 2000. The settlement obtained in this case is valued at approximately \$667 million, and is composed of cash, stock and warrants.

**CASE:** ***IN RE WACHOVIA PREFERRED SECURITIES AND BOND/NOTES LITIGATION***

**COURT:** **United States District Court for the Southern District of New York**

**HIGHLIGHTS:** \$627 million recovery – among the 20 largest securities class action recoveries in history; third largest recovery obtained in an action arising from the subprime mortgage crisis.

**DESCRIPTION:** This securities class action was filed on behalf of investors in certain Wachovia bonds and preferred securities against Wachovia Corp., certain former officers and directors, various underwriters, and its auditor, KPMG LLP. The case alleges that Wachovia provided offering materials that misrepresented and omitted material facts concerning the nature and quality of Wachovia's multi-billion dollar option-ARM (adjustable rate mortgage) "Pick-A-Pay" mortgage loan portfolio, and that Wachovia's loan loss reserves were materially inadequate. According to the Complaint, these undisclosed problems threatened the viability of the financial institution, requiring it to be "bailed out" during the financial crisis before it was acquired by Wells Fargo. The combined \$627 million recovery obtained in the action is among the 20 largest securities class action recoveries in history, the largest settlement ever in a class action case asserting only claims under the Securities Act of 1933, and one of a handful of securities class action recoveries obtained where there were no parallel civil or criminal actions brought by government authorities. The firm represented Co-Lead Plaintiffs **Orange County Employees Retirement System** and **Louisiana Sheriffs' Pension and Relief Fund** in this action.

**CASE:** ***OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM V. FREDDIE MAC***

**COURT:** **United States District Court for the Southern District of Ohio**

**HIGHLIGHTS:** \$410 million settlement.

**DESCRIPTION:** This securities fraud class action was filed on behalf of the **Ohio Public Employees Retirement System** and the **State Teachers Retirement System of Ohio** alleging that Federal Home Loan Mortgage Corporation ("Freddie Mac") and certain of its current and former officers issued false and misleading statements in connection with the company's previously reported financial results. Specifically, the Complaint alleged that the Defendants misrepresented the company's operations and financial results by having engaged in numerous improper transactions and accounting machinations that violated fundamental GAAP precepts in order to artificially smooth the company's earnings and to hide earnings volatility. In connection with these improprieties, Freddie Mac restated more than \$5 billion in earnings. A settlement of \$410 million was reached in the case just as deposition discovery had begun and document review was complete.

**CASE:** ***IN RE REFCO, INC. SECURITIES LITIGATION***

**COURT:** **United States District Court for the Southern District of New York**



- HIGHLIGHTS:** Over \$407 million in total recoveries.
- DESCRIPTION:** The lawsuit arises from the revelation that Refco, a once prominent brokerage, had for years secreted hundreds of millions of dollars of uncollectible receivables with a related entity controlled by Phillip Bennett, the company’s Chairman and Chief Executive Officer. This revelation caused the stunning collapse of the company a mere two months after its initial public offering of common stock. As a result, Refco filed one of the largest bankruptcies in U.S. history. Settlements have been obtained from multiple company and individual defendants, resulting in a total recovery for the class of over \$407 million. BLB&G represented Co-Lead Plaintiff **RH Capital Associates LLC**.

## CORPORATE GOVERNANCE AND SHAREHOLDERS’ RIGHTS

- CASE:** **UNITEDHEALTH GROUP, INC. SHAREHOLDER DERIVATIVE LITIGATION**
- COURT:** **United States District Court for the District of Minnesota**
- HIGHLIGHTS:** Litigation recovered over \$920 million in ill-gotten compensation directly from former officers for their roles in illegally backdating stock options, while the company agreed to far-reaching reforms aimed at curbing future executive compensation abuses.
- DESCRIPTION:** This shareholder derivative action filed against certain current and former executive officers and members of the Board of Directors of UnitedHealth Group, Inc. alleged that the Defendants obtained, approved and/or acquiesced in the issuance of stock options to senior executives that were unlawfully backdated to provide the recipients with windfall compensation at the direct expense of UnitedHealth and its shareholders. The firm recovered over \$920 million in ill-gotten compensation directly from the former officer Defendants – the largest derivative recovery in history. As feature coverage in *The New York Times* indicated, “investors everywhere should applaud [the UnitedHealth settlement].... [T]he recovery sets a standard of behavior for other companies and boards when performance pay is later shown to have been based on ephemeral earnings.” The Plaintiffs in this action were the **St. Paul Teachers’ Retirement Fund Association**, the **Public Employees’ Retirement System of Mississippi**, the **Jacksonville Police & Fire Pension Fund**, the **Louisiana Sheriffs’ Pension & Relief Fund**, the **Louisiana Municipal Police Employees’ Retirement System** and **Fire & Police Pension Association of Colorado**.
- CASE:** **CAREMARK MERGER LITIGATION**
- COURT:** **Delaware Court of Chancery – New Castle County**
- HIGHLIGHTS:** Landmark Court ruling orders Caremark’s board to disclose previously withheld information, enjoins shareholder vote on CVS merger offer, and grants statutory appraisal rights to Caremark shareholders. The litigation ultimately forced CVS to raise offer by \$7.50 per share, equal to more than \$3.3 billion in additional consideration to Caremark shareholders.
- DESCRIPTION:** Commenced on behalf of the **Louisiana Municipal Police Employees’ Retirement System** and other shareholders of Caremark RX, Inc. (“Caremark”), this shareholder class action accused the company’s directors of violating their fiduciary duties by approving and endorsing a proposed merger with CVS Corporation (“CVS”), all the while refusing to fairly consider an alternative transaction proposed by another bidder. In a landmark decision, the Court ordered the Defendants to disclose material information that had previously been withheld, enjoined the shareholder vote on the CVS transaction until the additional disclosures occurred, and granted statutory appraisal rights to Caremark’s shareholders—forcing CVS to increase the consideration offered to shareholders by \$7.50 per share in cash (over \$3 billion in total).



**CASE:** *IN RE PFIZER INC. SHAREHOLDER DERIVATIVE LITIGATION*

**COURT:** United States District Court for the Southern District of New York

**HIGHLIGHTS:** Landmark settlement in which Defendants agreed to create a new Regulatory and Compliance Committee of the Pfizer Board that will be supported by a dedicated \$75 million fund.

**DESCRIPTION:** In the wake of Pfizer’s agreement to pay \$2.3 billion as part of a settlement with the U.S. Department of Justice to resolve civil and criminal charges relating to the illegal marketing of at least 13 of the company’s most important drugs (the largest such fine ever imposed), this shareholder derivative action was filed against Pfizer’s senior management and Board alleging they breached their fiduciary duties to Pfizer by, among other things, allowing unlawful promotion of drugs to continue after receiving numerous “red flags” that Pfizer’s improper drug marketing was systemic and widespread. The suit was brought by Court-appointed Lead Plaintiffs **Louisiana Sheriffs’ Pension and Relief Fund and Skandia Life Insurance Company, Ltd.** In an unprecedented settlement reached by the parties, the Defendants agreed to create a new Regulatory and Compliance Committee of the Pfizer Board of Directors (the “Regulatory Committee”) to oversee and monitor Pfizer’s compliance and drug marketing practices and to review the compensation policies for Pfizer’s drug sales related employees.

**CASE:** *IN RE EL PASO CORP. SHAREHOLDER LITIGATION*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** Landmark Delaware ruling chastises Goldman Sachs for M&A conflicts of interest.

**DESCRIPTION:** This case aimed a spotlight on ways that financial insiders – in this instance, Wall Street titan Goldman Sachs – game the system. The Delaware Chancery Court harshly rebuked Goldman for ignoring blatant conflicts of interest while advising their corporate clients on Kinder Morgan’s high-profile acquisition of El Paso Corporation. As a result of the lawsuit, Goldman was forced to relinquish a \$20 million advisory fee, and BLB&G obtained a \$110 million cash settlement for El Paso shareholders – one of the highest merger litigation damage recoveries in Delaware history.

**CASE:** *IN RE DELPHI FINANCIAL GROUP SHAREHOLDER LITIGATION*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** Dominant shareholder is blocked from collecting a payoff at the expense of minority investors.

**DESCRIPTION:** As the Delphi Financial Group prepared to be acquired by Tokio Marine Holdings Inc., the conduct of Delphi’s founder and controlling shareholder drew the scrutiny of BLB&G and its institutional investor clients for improperly using the transaction to expropriate at least \$55 million at the expense of the public shareholders. BLB&G aggressively litigated this action and obtained a settlement of \$49 million for Delphi’s public shareholders. The settlement fund is equal to about 90% of recoverable Class damages – a virtually unprecedented recovery.

**CASE:** *QUALCOMM BOOKS & RECORDS LITIGATION*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** Novel use of “books and records” litigation enhances disclosure of political spending and transparency.

**DESCRIPTION:** The U.S. Supreme Court’s controversial 2010 opinion in *Citizens United v. FEC* made it easier for corporate directors and executives to secretly use company funds – shareholder assets – to support personally favored political candidates or causes. BLB&G prosecuted the first-ever “books and records” litigation to obtain disclosure of corporate political spending at our client’s portfolio company – technology giant Qualcomm Inc. – in response to Qualcomm’s refusal to share the information. As a result of the lawsuit, Qualcomm adopted a policy that provides its shareholders



with comprehensive disclosures regarding the company's political activities and places Qualcomm as a standard-bearer for other companies.

**CASE:** *IN RE NEWS CORP. SHAREHOLDER DERIVATIVE LITIGATION*

**COURT:** Delaware Court of Chancery – Kent County

**HIGHLIGHTS:** An unprecedented settlement in which News Corp. recoups \$139 million and enacts significant corporate governance reforms that combat self-dealing in the boardroom.

**DESCRIPTION:** Following News Corp.'s 2011 acquisition of a company owned by News Corp. Chairman and CEO Rupert Murdoch's daughter, and the phone-hacking scandal within its British newspaper division, we filed a derivative litigation on behalf of the company because of institutional shareholder concern with the conduct of News Corp.'s management. We ultimately obtained an unprecedented settlement in which News Corp. recouped \$139 million for the company coffers, and agreed to enact corporate governance enhancements to strengthen its compliance structure, the independence and functioning of its board, and the compensation and clawback policies for management.

**CASE:** *IN RE ACS SHAREHOLDER LITIGATION (XEROX)*

**COURT:** Delaware Court of Chancery – New Castle County

**HIGHLIGHTS:** BLB&G challenged an attempt by ACS CEO to extract a premium on his stock not shared with the company's public shareholders in a sale of ACS to Xerox. On the eve of trial, BLB&G obtained a \$69 million recovery, with a substantial portion of the settlement personally funded by the CEO.

**DESCRIPTION:** Filed on behalf of the **New Orleans Employees' Retirement System** and similarly situated shareholders of Affiliated Computer Service, Inc., this action alleged that members of the Board of Directors of ACS breached their fiduciary duties by approving a merger with Xerox Corporation which would allow Darwin Deason, ACS's founder and Chairman and largest stockholder, to extract hundreds of millions of dollars of value that rightfully belongs to ACS's public shareholders for himself. Per the agreement, Deason's consideration amounted to over a 50% premium when compared to the consideration paid to ACS's public stockholders. The ACS Board further breached its fiduciary duties by agreeing to certain deal protections in the merger agreement that essentially locked up the transaction between ACS and Xerox. After seeking a preliminary injunction to enjoin the deal and engaging in intense discovery and litigation in preparation for a looming trial date, Plaintiffs reached a global settlement with Defendants for \$69 million. In the settlement, Deason agreed to pay \$12.8 million, while ACS agreed to pay the remaining \$56.1 million.

**CASE:** *IN RE DOLLAR GENERAL CORPORATION SHAREHOLDER LITIGATION*

**COURT:** Sixth Circuit Court for Davidson County, Tennessee; Twentieth Judicial District, Nashville

**HIGHLIGHTS:** Holding Board accountable for accepting below-value "going private" offer.

**DESCRIPTION:** A Nashville, Tennessee corporation that operates retail stores selling discounted household goods, in early March 2007, Dollar General announced that its Board of Directors had approved the acquisition of the company by the private equity firm Kohlberg Kravis Roberts & Co. ("KKR"). BLB&G, as Co-Lead Counsel for the **City of Miami General Employees' & Sanitation Employees' Retirement Trust**, filed a class action complaint alleging that the "going private" offer was approved as a result of breaches of fiduciary duty by the board and that the price offered by KKR did not reflect the fair value of Dollar General's publicly-held shares. On the eve of the summary judgment hearing, KKR agreed to pay a \$40 million settlement in favor of the shareholders, with a potential for \$17 million more for the Class.

**CASE:** *LANDRY'S RESTAURANTS, INC. SHAREHOLDER LITIGATION*



- COURT:** Delaware Court of Chancery – New Castle County
- HIGHLIGHTS:** Protecting shareholders from predatory CEO’s multiple attempts to take control of Landry’s Restaurants through improper means. Our litigation forced the CEO to increase his buyout offer by four times the price offered and obtained an additional \$14.5 million cash payment for the class.
- DESCRIPTION:** In this derivative and shareholder class action, shareholders alleged that Tilman J. Fertitta – chairman, CEO and largest shareholder of Landry’s Restaurants, Inc. – and its Board of Directors stripped public shareholders of their controlling interest in the company for no premium and severely devalued remaining public shares in breach of their fiduciary duties. BLB&G’s prosecution of the action on behalf of Plaintiff **Louisiana Municipal Police Employees’ Retirement System** resulted in recoveries that included the creation of a settlement fund composed of \$14.5 million in cash, as well as significant corporate governance reforms and an increase in consideration to shareholders of the purchase price valued at \$65 million.

## EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS

- CASE:** *ROBERTS V. TEXACO, INC.*
- COURT:** United States District Court for the Southern District of New York
- HIGHLIGHTS:** BLB&G recovered \$170 million on behalf of Texaco’s African-American employees and engineered the creation of an independent “Equality and Tolerance Task Force” at the company.
- DESCRIPTION:** Six highly qualified African-American employees filed a class action complaint against Texaco Inc. alleging that the company failed to promote African-American employees to upper level jobs and failed to compensate them fairly in relation to Caucasian employees in similar positions. BLB&G’s prosecution of the action revealed that African-Americans were significantly under-represented in high level management jobs and that Caucasian employees were promoted more frequently and at far higher rates for comparable positions within the company. The case settled for over \$170 million, and Texaco agreed to a Task Force to monitor its diversity programs for five years – a settlement described as the most significant race discrimination settlement in history.
- CASE:** *ECO A - GMAC/NMAC/FORD/TOYOTA/CHRYSLER - CONSUMER FINANCE DISCRIMINATION LITIGATION*
- COURT:** Multiple jurisdictions
- HIGHLIGHTS:** Landmark litigation in which financing arms of major auto manufacturers are compelled to cease discriminatory “kick-back” arrangements with dealers, leading to historic changes to auto financing practices nationwide.
- DESCRIPTION:** The cases involve allegations that the lending practices of General Motors Acceptance Corporation, Nissan Motor Acceptance Corporation, Ford Motor Credit, Toyota Motor Credit and DaimlerChrysler Financial cause African-American and Hispanic car buyers to pay millions of dollars more for car loans than similarly situated white buyers. At issue is a discriminatory kickback system under which minorities typically pay about 50% more in dealer mark-up which is shared by auto dealers with the Defendants.

**NMAC:** The United States District Court for the Middle District of Tennessee granted final approval of the settlement of the class action against Nissan Motor Acceptance Corporation (“NMAC”) in which NMAC agreed to offer pre-approved loans to hundreds of thousands of current and potential African-American and Hispanic NMAC customers, and limit how much it raises the interest charged to car buyers above the company’s minimum acceptable rate.

**GMAC:** The United States District Court for the Middle District of Tennessee granted final approval of a settlement of the litigation against General Motors Acceptance Corporation (“GMAC”) in which GMAC agreed to take the historic step of imposing a 2.5% markup cap on loans with terms up to 60 months, and a cap of 2% on extended term loans. GMAC also agreed to institute a substantial credit pre-approval program designed to provide special financing rates to



minority car buyers with special rate financing.

**DAIMLERCHRYSLER:** The United States District Court for the District of New Jersey granted final approval of the settlement in which DaimlerChrysler agreed to implement substantial changes to the company's practices, including limiting the maximum amount of mark-up dealers may charge customers to between 1.25% and 2.5% depending upon the length of the customer's loan. In addition, the company agreed to send out pre-approved credit offers of no-markup loans to African-American and Hispanic consumers, and contribute \$1.8 million to provide consumer education and assistance programs on credit financing.

**FORD MOTOR CREDIT:** The United States District Court for the Southern District of New York granted final approval of a settlement in which Ford Credit agreed to make contract disclosures informing consumers that the customer's Annual Percentage Rate ("APR") may be negotiated and that sellers may assign their contracts and retain rights to receive a portion of the finance charge.

## CLIENTS AND FEES

We are firm believers in the contingency fee as a socially useful, productive and satisfying basis of compensation for legal services, particularly in litigation. Wherever appropriate, even with our corporate clients, we will encourage retention where our fee is contingent on the outcome of the litigation. This way, it is not the number of hours worked that will determine our fee, but rather the result achieved for our client.

Our clients include many large and well known financial and lending institutions and pension funds, as well as privately-held companies that are attracted to our firm because of our reputation, expertise and fee structure. Most of the firm's clients are referred by other clients, law firms and lawyers, bankers, investors and accountants. A considerable number of clients have been referred to the firm by former adversaries. We have always maintained a high level of independence and discretion in the cases we decide to prosecute. As a result, the level of personal satisfaction and commitment to our work is high.

## IN THE PUBLIC INTEREST

Bernstein Litowitz Berger & Grossmann LLP is guided by two principles: excellence in legal work and a belief that the law should serve a socially useful and dynamic purpose. Attorneys at the firm are active in academic, community and *pro bono* activities, as well as participating as speakers and contributors to professional organizations. In addition, the firm endows a public interest law fellowship and sponsors an academic scholarship at Columbia Law School.

**BERNSTEIN LITOWITZ BERGER & GROSSMANN PUBLIC INTEREST LAW FELLOWS COLUMBIA LAW SCHOOL** – BLB&G is committed to fighting discrimination and effecting positive social change. In support of this commitment, the firm donated funds to Columbia Law School to create the Bernstein Litowitz Berger & Grossmann Public Interest Law Fellowship. This newly endowed fund at Columbia Law School will provide Fellows with 100% of the funding needed to make payments on their law school tuition loans so long as such graduates remain in the public interest law field. The BLB&G Fellows are able to begin their careers free of any school debt if they make a long-term commitment to public interest law.

### FIRM SPONSORSHIP OF HER JUSTICE

**NEW YORK, NY** – BLB&G is a sponsor of Her Justice, a non-profit organization in New York City dedicated to providing *pro bono* legal representation to indigent women, principally battered women, in connection with the myriad legal problems they face. The organization trains and supports the efforts of New York lawyers who provide *pro bono* counsel to these women. Several members and associates of the firm volunteer their time to help women who need divorces from abusive spouses, or representation on issues such as child support, custody and visitation. To read more about Her Justice, visit the organization's website at [www.herjustice.org](http://www.herjustice.org).

### THE PAUL M. BERNSTEIN MEMORIAL SCHOLARSHIP

**COLUMBIA LAW SCHOOL** – Paul M. Bernstein was the founding senior partner of the firm. Mr. Bernstein led a distinguished career as a lawyer and teacher and was deeply committed to the professional and personal development of young lawyers. The Paul M. Bernstein Memorial Scholarship Fund is a gift of the firm and the family and friends of Paul M. Bernstein, and is awarded annually to one or more second-year students selected for their academic excellence in their first year, professional responsibility, financial need and contributions to the community.

### FIRM SPONSORSHIP OF CITY YEAR NEW YORK

**NEW YORK, NY** – BLB&G is also an active supporter of City Year New York, a division of AmeriCorps. The program was founded in 1988 as a means of encouraging young people to devote time to public service and unites a diverse group of volunteers for a demanding year of full-time community service, leadership development and civic engagement. Through their service, corps members experience a rite of passage that can inspire a lifetime of citizenship and build a stronger democracy.

### MAX W. BERGER PRE-LAW PROGRAM

**BARUCH COLLEGE** – In order to encourage outstanding minority undergraduates to pursue a meaningful career in the legal profession, the Max W. Berger Pre-Law Program was established at Baruch College. Providing workshops, seminars, counseling and mentoring to Baruch students, the program facilitates and guides them through the law school research and application process, as well as placing them in appropriate internships and other pre-law working environments.

### NEW YORK SAYS THANK YOU FOUNDATION

**NEW YORK, NY** – Founded in response to the outpouring of love shown to New York City by volunteers from all over the country in the wake of the 9/11 attacks, The New York Says Thank You Foundation sends volunteers from New York City to help rebuild communities around the country affected by disasters. BLB&G is a corporate sponsor of NYSTY and its goals are a heartfelt reflection of the firm's focus on community and activism.

## OUR ATTORNEYS

### MEMBERS

**GERALD H. SILK**'s practice focuses on representing institutional investors on matters involving federal and state securities laws, accountants' liability, and the fiduciary duties of corporate officials, as well as general commercial and corporate litigation. He also advises creditors on their rights with respect to pursuing affirmative claims against officers and directors, as well as professionals both inside and outside the bankruptcy context.

Mr. Silk is a managing partner of the firm and oversees its New Matter department in which he, along with a group of attorneys, financial analysts and investigators, counsels institutional clients on potential legal claims. He was the subject of "Picking Winning Securities Cases," a feature article in the June 2005 issue of *Bloomberg Markets* magazine, which detailed his work for the firm in this capacity. A decade later, in December 2014, Mr. Silk was recognized by *The National Law Journal* in its inaugural list of "Litigation Trailblazers & Pioneers" — one of 50 lawyers in the country who have changed the practice of litigation through the use of innovative legal strategies — in no small part for the critical role he has played in helping the firm's investor clients recover billions of dollars in litigation arising from the financial crisis, among other matters.

In addition, *Lawdragon* magazine, which has named Mr. Silk one of the "100 Securities Litigators You Need to Know," one of the "500 Leading Lawyers in America" and one of America's top 500 "rising stars" in the legal profession, also recently profiled him as part of its "Lawyer Limelight" special series, discussing subprime litigation, his passion for plaintiffs' work and the trends he expects to see in the market. Recognized as one of an elite group of notable practitioners by *Chambers USA*, he is also named as a "Litigation Star" by *Benchmark*, is recommended by the *Legal 500 USA* guide in the field of plaintiffs' securities litigation, and has been selected by *New York Super Lawyers* every year since 2006.

In the wake of the financial crisis, he advised the firm's institutional investor clients on their rights with respect to claims involving transactions in residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDOs). His work representing Cambridge Place Investment Management Inc. on claims under Massachusetts state law against numerous investment banks arising from the purchase of billions of dollars of RMBS was featured in a 2010 *New York Times* article by Gretchen Morgenson titled, "Mortgage Investors Turn to State Courts for Relief."

Mr. Silk also represented the New York State Teachers' Retirement System in a securities litigation against the General Motors Company arising from a series of misrepresentations concerning the quality, safety, and reliability of the Company's cars which resulted in a \$300 million settlement. In addition, he is actively involved in the firm's prosecution of highly successful M&A litigation, representing shareholders in widely publicized lawsuits, including the litigation arising from the proposed acquisition of Caremark Rx, Inc. by CVS Corporation — which led to an increase of approximately \$3.5 billion in the consideration offered to shareholders.

Mr. Silk was one of the principal attorneys responsible for prosecuting the *In re Independent Energy Holdings Securities Litigation*. A case against the officers and directors of Independent Energy as well as several investment banking firms which underwrote a \$200 million secondary offering of ADRs by the U.K.-based Independent Energy, the litigation was resolved for \$48 million. Mr. Silk has also prosecuted and successfully resolved several other securities class actions, which resulted in substantial cash recoveries for investors, including *In re Sykes Enterprises, Inc. Securities Litigation* in the Middle District of Florida, and *In re OM Group, Inc. Securities Litigation* in the Northern District of Ohio. He was also a member of the litigation team



responsible for the successful prosecution of *In re Cendant Corporation Securities Litigation* in the District of New Jersey, which was resolved for \$3.2 billion.

A graduate of the Wharton School of Business, University of Pennsylvania and Brooklyn Law School, in 1995-96, Mr. Silk served as a law clerk to the Hon. Steven M. Gold, U.S.M.J., in the United States District Court for the Eastern District of New York.

Mr. Silk lectures to institutional investors at conferences throughout the country, and has written or substantially contributed to several articles on developments in securities and corporate law, including "Improving Multi-Jurisdictional, Merger-Related Litigation," American Bar Association (February 2011); "The Compensation Game," *Lawdragon*, Fall 2006; "Institutional Investors as Lead Plaintiffs: Is There A New And Changing Landscape?," *75 St. John's Law Review* 31 (Winter 2001); "The Duty To Supervise, Poser, Broker-Dealer Law and Regulation," 3rd Ed. 2000, Chapter 15; "Derivative Litigation In New York after Marx v. Akers," *New York Business Law Journal*, Vol. 1, No. 1 (Fall 1997).

He is a frequent commentator for the business media on television and in print. Among other outlets, he has appeared on NBC's *Today*, and CNBC's *Power Lunch*, *Morning Call*, and *Squawkbox* programs, as well as being featured in *The New York Times*, *Financial Times*, *Bloomberg*, *The National Law Journal*, and the *New York Law Journal*.

EDUCATION: Wharton School of the University of Pennsylvania, B.S., Economics, 1991. Brooklyn Law School, J.D., *cum laude*, 1995.

BAR ADMISSIONS: New York; U.S. District Courts for the Southern and Eastern Districts of New York.

**AVI JOSEFSON** prosecutes securities fraud litigation for the firm's institutional investor clients, and has participated in many of the firm's significant representations, including *In re SCOR Holding (Switzerland) AG Securities Litigation*, which resulted in a recovery worth in excess of \$143 million for investors. He was also a member of the team that litigated the *In re OM Group, Inc. Securities Litigation*, which resulted in a settlement of \$92.4 million.

As a member of the firm's New Matter department, Mr. Josefson counsels institutional clients on potential legal claims. He has presented argument in several federal and state courts, including an appeal he argued before the Delaware Supreme Court.

Mr. Josefson is also actively involved in the M&A litigation practice, and represented shareholders in the litigation arising from the proposed acquisitions of Ceridian Corporation and Anheuser-Busch. A member of the firm's subprime litigation team, he has participated in securities fraud actions arising from the collapse of subprime mortgage lender American Home Mortgage and the actions against Lehman Brothers, Citigroup and Merrill Lynch, arising from those banks' multi-billion dollar loss from mortgage-backed investments. Mr. Josefson has prosecuted actions against Deutsche Bank and Morgan Stanley arising from their sale of mortgage-backed securities, and is advising U.S. and foreign institutions concerning similar claims arising from investments in mortgage-backed securities.

Mr. Josefson practices in the firm's Chicago and New York Offices.

EDUCATION: Brandeis University, B.A., *cum laude*, 1997. Northwestern University, J.D., 2000; *Dean's List*; Justice Stevens Public Interest Fellowship (1999); Public Interest Law Initiative Fellowship (2000).

BAR ADMISSIONS: Illinois, New York; U.S. District Courts for the Southern District of New York and the Northern District of Illinois.

**KATHERINE M. SINDERSON** is involved in a variety of the firm's practice areas, including securities fraud, corporate governance, and advisory services. She is currently a member of the teams prosecuting securities class actions against Salix Pharmaceuticals, Dole, GNC and SunEdison, and litigation arising from the failure of the major mid-Atlantic bank, Wilmington Trust.

Most recently, Ms. Sinderson played a key role in two of the firm's largest cases in its history, both of which settled near trial for billions of dollars on behalf of investors. In *In re Merck Securities Litigation*, she was a member of the small trial team which resulted in a \$1.062 billion settlement. If approved by the Court, this settlement would be the second largest recovery ever obtained in the Third Circuit, one of the top 10 recoveries of all time, and the largest recovery ever achieved against a pharmaceutical company. She was also a member of the trial team prosecuting *In re Bank of America Securities Litigation*, which resulted in a recovery of \$2.425 billion, the single largest securities class action recovery ever resolving violations of Sections 14(a) and 10(b) of the Securities Exchange Act and one of the largest shareholder recoveries in history.

Ms. Sinderson has also been part of the trial teams in several additional securities litigations through which the firm has successfully recovered hundreds of millions of dollars on behalf of injured investors. She was a member of the trial team that prosecuted the action against Washington Mutual, Inc. and certain of its former officers and directors for alleged fraudulent conduct in the thrift's home lending operations, an action which resulted in a recovery of \$208.5 million, one of the largest settlements achieved in a case related to the fallout of the subprime crisis and the largest recovery ever achieved in a securities class action in the Western District of Washington. She was also a part of the trial teams that prosecuted the *In re Bristol-Myers Squibb Co. Securities Litigation*, which resulted in a recovery of \$125 million, as well as *In re Biovail Corporation Securities Litigation*, which resulted in a recovery of \$138 million for defrauded investors and represents the second largest recovery in any securities case involving a Canadian issuer.

Ms. Sinderson was recently recognized as a national "Rising Star" by *Law360* for her work in securities litigation. She was also named to *Benchmark Litigation's* "Under 40 Hot List," which recognizes her as one the nation's most accomplished legal partners under the age of 40.

EDUCATION: Baylor University, B.A., *cum laude*, 2002. Georgetown University, J.D., *cum laude*, 2006; Dean's Scholar; Articles Editor for *The Georgetown Journal of Gender and the Law*.

BAR ADMISSIONS: New York; U.S. District Court for the Southern District of New York; U.S. Court of Appeals for the Second Circuit.

## ASSOCIATES

**REBECCA BOON** practices out of the New York office, where she prosecutes securities fraud, corporate governance and shareholder rights litigation for the firm's institutional investor clients.

Prior to joining the firm, Ms. Boon was an associate at a major international law firm, where she represented clients in securities litigation, ERISA litigation, contract disputes, international arbitration, white collar crime and criminal appeals.

Ms. Boon is currently a senior member of the teams prosecuting *New York State Teachers' Retirement System v. General Motors Company, et al.*; *The Department of The Treasury of the State of New Jersey and Its Division of Investment v. Cliffs Natural Resources Inc., et al.*; and *Public School Teachers' Pension and Retirement Fund of Chicago v. Northern Trust Investments N.A., et al.* In addition, over the past few years, Ms. Boon has been a senior member of the teams prosecuting numerous actions against Morgan Stanley and Deutsche Bank arising out of their allegedly fraudulent sales of residential mortgage-backed securities, which have resulted in millions of dollars in recovery for investors, including *Metropolitan Life Insurance Company v. Morgan Stanley, et al.*, among others.

While in law school, Ms. Boon served as the research assistant to Dean Nora Demleitner. Ms. Boon also worked as an intern at Her Justice (formerly known as inMotion, Inc.), as well as Hofstra Law School's Political Asylum Clinic.

EDUCATION: Vassar College, B.A., 2004 (History, Correlate in Women's Studies); Social Justice Community Fellow. Hofstra University School of Law, 2007, J.D., *cum laude*; Charles H. Revson Foundation Law Students Public Interest Fellow; *Hofstra Law Review*; Distinguished Contribution to the School and Excellence in International Law Awards; Merit Scholarship.

BAR ADMISSIONS: New York; U.S. District Court for the Southern District of New York.

**JOHN J. MILLS'** practice concentrates on Class Action Settlements and Settlement Administration. Mr. Mills also has experience representing large financial institutions in corporate finance transactions.

EDUCATION: Duke University, B.A., 1997. Brooklyn Law School, J.D., *cum laude*, 2000; Member of *The Brooklyn Journal of International Law*; Carswell Merit Scholar recipient.

BAR ADMISSIONS: New York; U.S. District Courts for the Eastern and Southern Districts of New York.

**DAVID SCHWARTZ** prosecutes securities fraud, corporate governance and shareholder rights litigation on behalf of the firm's institutional investor clients.

Prior to joining the firm, Mr. Schwartz was an associate at a major international law firm, where he represented clients in business and complex commercial litigation, contract disputes, securities class actions, shareholder derivative suits, and SEC and other governmental inquiries and investigations.

Mr. Schwartz received his J.D. from Fordham University School of Law, where he was an Editor of the *Urban Law Journal*, and received his B.A. in economics from the University of Chicago.

EDUCATION: University of Chicago, B.A., Economics, 2003; *Dean's List*. Fordham University School of Law, J.D., 2008; Editor of *Urban Law Journal*.

BAR ADMISSIONS: New York; U.S. District Court for the Southern District of New York.



## STAFF ATTORNEYS

The BLB&G staff attorneys are involved with every stage of litigation, including conducting e-discovery, legal research, preparing for depositions, and assisting with pleadings, expert discovery, summary judgment and trial preparation.

**ALEX BATES** (no longer with the Firm) worked on numerous matters at BLB&G, including *Allstate Insurance Company v. Morgan Stanley & Co., Inc.*, *In re News Corp. Shareholder Derivative Litigation*, *Northern Trust Securities Lending Litigation*, *In re MBIA Inc. Securities Litigation* and *In re Washington Mutual, Inc. Securities Litigation*.

Prior to joining the firm in 2010, Mr. Bates was a staff attorney at Kaplan Fox & Kilsheimer LLP and a contract attorney at several major law firms.

EDUCATION: Seattle University School of Arts and Sciences, B.A., 1991. Seattle University School of Law, J.D., 1995.

BAR ADMISSIONS: New York.

**ABBIE PUGH** has worked on numerous matters at BLB&G, including *San Antonio Fire and Police Pension Fund v. Dole Food Company, Inc.*, *In re Dish Network Corp. Shareholder Litigation* and *Northern Trust Securities Lending Litigation*, as well as various Corporate Governance matters.

Prior to joining the firm in 2013, Ms. Rea was a litigation associate at Ropes & Gray LLP.

EDUCATION: The College of William and Mary, B.A., *magna cum laude*, 2006. Duke University School of Law, J.D., 2009.

BAR ADMISSIONS: New York.

# **EXHIBIT 5B**



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM, THE BOARD OF TRUSTEES OF THE PUBLIC SCHOOL TEACHERS' PENSION AND RETIREMENT FUND OF CHICAGO, THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC POLICE & FIRE RETIREMENT SYSTEM, and THE BOARD OF TRUSTEES OF THE CITY OF PONTIAC GENERAL EMPLOYEES RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NORTHERN TRUST INVESTMENTS, N.A., and THE NORTHERN TRUST COMPANY,

Defendants.

Case No. 09-7203

Hon. Jorge L. Alonso

**DECLARATION OF MATTHEW I. HENZI IN SUPPORT OF  
CO-LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND  
REIMBURSEMENT OF LITIGATION EXPENSES FILED ON BEHALF OF  
SULLIVAN, WARD, ASHER & PATTON P.C.**

Matthew I. Henzi declares as follows:

1. I am a partner in the law firm of Sullivan, Ward, Asher & Patton P.C. My firm served as Co-Lead Counsel for the Class in connection with the litigation of the Direct Lending claims asserted in the above-captioned action (the "Action"). I submit this declaration in support of Co-Lead Counsel's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of litigation expenses incurred in connection with the Action.

2. The schedule attached hereto as Exhibit 1 is a summary of the amount of time spent by each attorney of my firm who, from January 14, 2014 through and including July 25, 2016, billed ten or more hours to the prosecution of the Direct Lending claims ("Total Hours"),

and the lodestar calculation for those individuals based on their current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for attorneys' fees has not been included in this request.

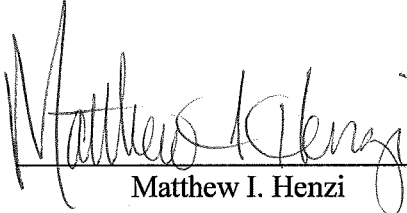
3. The hourly rates for the attorneys of my firm included in Exhibit 1 are the same as the regular rates currently charged for their services in non-contingent matters and/or which have been accepted in other securities or shareholder litigation.

4. The Total Hours expended on this Action by my firm is 31.30. The total lodestar for my firm based on the Total Hours billed is \$17,215.00.

5. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

6. With respect to the standing of my firm, attached hereto as Exhibit 2 is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on December 7, 2016.

  
Matthew I. Henzi

**EXHIBIT 1**

***La. Firefighters' Ret. Sys., et al. v. N. Trust Invs., N.A., et al., No. 09-7203***

**SULLIVAN, WARD, ASHER & PATTON P.C.**

**TIME REPORT**

**January 14, 2014 through and including July 25, 2016**

<b>NAME</b>	<b>HOURS</b>	<b>HOURLY RATE</b>	<b>LODESTAR</b>
<b>Partners</b>			
Matthew I. Henzi	20.70	\$550	\$11,385.00
Cynthia J. Billings-Dunn	10.60	\$550	\$5,830.00
<b>TOTALS</b>	<b>31.30</b>		<b>\$17,215.00</b>

**EXHIBIT 2**

[FIRM RESUME AND BIOGRAPHIES]

Sullivan, Ward, Asher & Patton, P.C. has been in existence since 1950 and presently employs 51 attorneys, supported by a staff of 40, including two full-time, on-site IT Professionals. The firm currently represents in excess of 40 private sector pension funds, 14 public pension plans, 25 health and welfare plans, and seven public sector retiree health benefit funds. Sullivan Ward has been committed to the public sector employee benefit practice for more than 15 years.

Sullivan Ward has received many awards of distinction, including the following:

- Tier 1 Ranking by U.S. News & World Report and Best Lawyers® for “Best Law Firms” 2015
- AV Rating by Martindale Hubbell, the highest possible rating for legal ethics and professionalism.

**MATTHEW I. HENZI**

**Partner**

Mr. Henzi is admitted to practice in Michigan and New York. He graduated from Madonna University in 1994 and Michigan State University-Detroit College of Law in 1997.

A significant portion of Mr. Henzi's practice is devoted to representing municipal retirement systems and health funds. He also acts as lead litigation counsel on numerous matters at the trial court level and appellate level in state and federal courts.

Mr. Henzi is a member of the Michigan Bar Association, the Federal Bar Association, the Michigan Association of Public Employee Retirement Systems (MAPERS), the International Foundation of Employee Benefit Plans (IFEBP), and the New York Bar Association.

Since 2003, Mr. Henzi has been appointed to four consecutive terms on the City of Livonia, Michigan Zoning Board of Appeals. Mr. Henzi has served his community as Chairman of the ZBA from 2006 to the present.

Mr. Henzi is rated by Martindale Hubbell as AV Preeminent, the highest rating for ethical standards and legal ability.

**CYNTHIA J. BILLINGS, CEBS, OKA, QPA**

**Partner**

Ms. Billings is a member of the State Bar of Michigan and Ohio Bar. Education: B.A., Walsh College, 1991, With Distinction; J.D., University of Detroit-Mercy, 1995. Ms. Billings provides counsel to municipal retirement and health systems, multiemployer fringe benefit funds, associations, and other businesses. She drafts document amendments for compliance with Internal Revenue Service and Department of Labor rule/regulations. She obtains IRS Determination Letters for client retirement systems and negotiates settlements with IRS and DOL during plan audits. She also represents clients in contract interpretation, and assists them in remaining compliant with state and federal benefit law.

In addition, Ms. Billings has completed the Certified Employee Benefit Specialist designation, co-sponsored by the International Foundation of Employee Benefit Plans and the Wharton School of the University of Pennsylvania. She has earned the Qualified Pension Administrator and the Qualified 401(k) Administrator designations, both sponsored by the American Society of Pension Professionals and Actuaries. She is currently pursuing a professional designation as a Certified Pension Consultant also sponsored by the American Society of Pension Professionals and Actuaries.

Ms. Billings is a member of the Michigan Bar Association, the Toledo Bar Association, the Michigan Association of Public Employee Retirement Systems (MAPERS), the

National Association of Public Pension Attorneys (NAPPA), the International Foundation of Employee Benefit Plans (IFEBP) and the American Society of Pension Professionals and Actuaries (ASPPA).

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