UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 1:12-cv-10544-JGD

EDMUND J. MANSOR, and
ROBERTA M. MANSOR

Plaintiffs,

v.

JPMORGAN CHASE BANK, N.A.

Defendant.
_____/

PLAINTIFFS' UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT AND CERTIFICATION OF THE SETTLEMENT CLASS

I. INTRODUCTION

Plaintiffs Edmund and Roberta Mansor and Defendant JPMorgan Chase Bank, N.A. ("Chase") have negotiated a settlement that will provide $4.625 million in monetary relief to the fewer than two hundred investors who purchased or otherwise acquired CDs from the promoters of the Millennium Ponzi scheme between September 25, 2008 and March 9, 2009. This settlement marks the end of more than five years of hard-fought litigation and, once approved, will provide significant relief to the members of the settlement class (hereinafter the "Conditional Class").[1]

Plaintiffs request that the Court enter the proposed Preliminary Approval Order attached to the Settlement Agreement as Exhibit B, granting preliminary approval to the Settlement; certifying, for settlement purposes only, the proposed Conditional Class for the purpose of providing notice to its members; approving the form and content and directing the distribution of the proposed Class Notice and accompanying Claim Form Instructions and Claim Form, attached to the Settlement Agreement as Exhibit A; appointing Kozyak Tropin & Throckmorton LLP ("KTT") and Keith L. Miller, Esq. as Class Counsel; and setting a date for the Final Approval Hearing approximately sixty days after the deadline for opt-outs and objections to the Settlement.

II. FACTUAL BACKGROUND

This case arises from William Wise's $150 million Millennium Bank Ponzi scheme, which involved the sale of bogus CDs with exorbitant interest rates. *See* SAC ¶¶ 8-10. Wise and his co-conspirators, Jackie and Kristi Hoegel, used accounts at two WaMu, and later Chase, branches to steal millions of dollars that they had collected from investors. *See id.* ¶¶ 12, 15-17. Plaintiffs in this action brought claims against Chase for aiding and abetting the Millennium fraud.

Plaintiffs alleged that Chase employees, and particularly branch manager Tamara Ressler,

[1] Terms used here that are defined in the Settlement Agreement, which is attached as **Exhibit 1**, take on the same meaning as set forth therein.

facilitated the Millennium scheme. Ressler acquired specific knowledge of Wise's illegal activities while working at WaMu and willingly assisted the Millennium Bank fraud anyway. *See id.* ¶¶ 13-32. Plaintiffs alleged, *inter alia*, that Ressler observed a high volume of checks being deposited into the Millennium accounts, including memos describing the terms and interest rates of the Millennium CDs, SAC ¶¶ 18, 19; observed that Wise and the Hoegels were not placing any money in legitimate enterprises, *id.* ¶ 18; received calls from investigators regarding the nature of the Millennium business and Wise, *id.* ¶ 19, 22; established a remote wiring interface to reduce Millennium's visibility at branch offices, *id.* ¶ 18, 21; and assisted Wise and the Hoegels in having restraints removed from personal and Millennium accounts, *id.* ¶¶ 26, 27, 30, 31, 47.

Plaintiffs alleged that Ressler continued to assist the Millennium fraud after September 25, 2008, when the United States Office of Thrift Supervision placed WaMu into receivership with the FDIC, and sold certain of WaMu's assets to Chase. *See, e.g., id.* ¶ 28, 30-32, 39. Those assets included the Millennium Bank accounts, as well as the two Napa branches where Wise and the Hoegels had been executing their fraud. SAC ¶ 28. Accordingly, all of the Napa branch employees, including Ressler, became employees of Chase. *Id.* ¶ 29.

The SEC filed a civil enforcement action against Wise and his associates on March 25, 2009 in the United States District Court for the Northern District of Texas. *Id.* ¶ 35. By that time, Millennium Bank investors had lost millions of dollars. *See id.* ¶ 49.

B. The Litigation

In early 2009, Plaintiffs' Counsel Miller began investigating potential claims against third parties arising from the Millennium fraud. During that time, counsel reviewed discovery and pleadings from the SEC docket, interviewed more than two hundred witnesses, including William Wise, his attorneys, the Hoegels, WaMu and Chase employees, and numerous investors in the

Millennium scheme. Based on this informal discovery, and having been retained by the Mansors and others, Miller filed the original complaint against Chase on March 23, 2012. [D.E. 1.]

Chase moved to dismiss the original complaint on October 1, 2012 [D.E. 18, 19.] Shortly thereafter, the parties engaged in months of motion practice and argument on privilege issues after Miller was provided documents by the court-appointed Receiver in the SEC action, which included information governed by the Bank Secrecy Act ("BSA"). Ultimately, Chase withdrew its motion to dismiss, and the Court granted Plaintiffs leave to file an amended complaint. [D.E. 31, 32.]

After the Court denied a motion by Chase to certify certain BSA issues to the First Circuit Court of Appeals, Chase sought mandamus relief from that Court on those issues, and was granted leave to file briefs on its Petition in April 2014. Following full briefing on the BSA issues, the First Circuit heard argument in June, 2015, and later denied the Chase Petition.

Plaintiffs filed their First Amended Complaint on January 24, 2014. [D.E. 203.] Chase moved to dismiss, and pursuant to a Court scheduling order, its motion was fully briefed by April 18, 2014. [D.E. 210-214, 227, 244, 253.] The Court heard argument on Chase's motion on May 20, 2014 [D.E. 270], and months of discovery and discovery motions followed.

The Court granted Chase's motion to dismiss on December 10, 2014, holding that under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. § 1821(13)(D)(ii), it lacked jurisdiction to consider any claim based on WaMu's actions before it was placed into receivership by the FDIC, which included all claims raised by Plaintiffs Geoffrey and Sharon Hollis. [D.E. 328.] The Court also dismissed the remaining claims without prejudice for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). [*Id.*] The Court granted Plaintiffs leave to file a Second Amended Complaint. [*Id.* at 34-35.]

On December 12, 2012, in response to an emergency motion by Chase, the Court stayed

further discovery and case management deadlines.[2] [D.E. 331, 333.] The Mansors filed their Second Amended Complaint under seal on March 13, 2015 [D.E. 340], which Chase moved to dismiss one month later [D.E. 346]. On April 26, 2016, the Court denied Chase's motion to dismiss with respect to all claims save Plaintiffs' claim for negligence against Chase. [D.E. 364.] Chase answered the Second Amended Complaint on June 3, 2016. [D.E. 369, 374.]

KTT appeared for Plaintiffs on November 21, 2016, and Plaintiffs filed a motion to amend the complaint further on December 12, 2016. [D.E. 398.] Chase opposed that motion and the Court denied it after a hearing on September 18, 2017.

Plaintiffs moved for class certification in the beginning of January, 2018. In connection with its opposition to the class certification motion, Chase also moved to strike one of Plaintiffs' experts, as well as portions of its motion. Both motions were all fully briefed and remain pending.

The parties mediated Plaintiffs' claims before former Massachusetts Superior Court Judge Margaret R. Hinkle on March 6, 2018, and agreed to the material terms of a settlement. The parties continued to negotiate and draft a memorandum of understanding and settlement agreement, and executed the Settlement Agreement attached hereto as Exhibit A on June 20, 2018.

4. The Settlement Terms and Agreement

A. The Proposed Class

The Settlement Agreement provides relief to all persons who purchased or otherwise acquired Millennium CDs from September 25, 2008 through March 9, 2009, which includes persons whose CDs purportedly rolled over. (Ex. A ¶ I.A.)

B. Monetary Relief

The Settlement Agreement requires Chase to provide $4,625,000.00 in monetary relief to

[2] Discovery was stayed by the Court for over sixteen months (12/12/14 to 4/26/16) pending a ruling on the motion to dismiss. [D.E. 342].

the Class members, each of whom will be entitled to his or her pro rata share based on his or her net losses as identified by the Receiver, net of the attorneys' fees and expenses, the Class Representatives' service awards, and the Receiver's reasonable fees in connection with administering the Settlement. (Ex. A at 4 & ¶ II.A.1.) Class members will not be required to submit proof of their claims to procure monetary relief, but will be identified from records maintained by the Receiver, and the Receiver will distribute the settlement benefits within thirty days of his receipt thereof. (*Id.* ¶¶ II.A.3. II.A.4.) Any portion of the Settlement Benefits that cannot be paid to a class member shall be placed in a charitable trust and distributed to a charity agreed upon by the Parties and approved by the Court. (*Id.* ¶ II.A.2.)

C. Release of Claims Against Chase

In exchange for the relief provided by the Settlement, members of the Settlement Class will release Chase, as well as its past, present, or future directors, officers, employees, principals, agents, shareholders, attorneys, legal representatives, accountants, auditors, predecessors, successors, parents, subsidiaries, divisions, assigns, and related or affiliated entities, from all liabilities, claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements, damages, costs, attorneys' fees, losses, expenses, obligations, or demands, which were asserted or which could have been asserted in this action, including without limitation all claims arising out of or relating in any way to Millennium Bank, UT of S, LLC, United T of S, LLC, United Trust of Switzerland, Sterling I.S., LLC, or any entity associated with William Wise. (*Id.* § VIII.B.1.) Conditional Class members who wish to retain their individual claims may opt out of the Settlement. *See* Section II.F, *infra*.

D. Class Counsel Fees and Expenses and Named Plaintiffs' Enhancement Award

The parties stipulate in the Settlement Agreement that KTT and Keith L. Miller will serve

as Class Counsel. (*Id.* at 1, 25.) The Settlement Agreement provides that, within fifteen days after the Conditional Order, Class Counsel apply to the Court for attorneys' fees, to be paid from the total Settlement Benefits disbursed by Chase. (*Id.* § VII.) Based on the extent and quality of work provided over more than five years of litigation, as well as extensive investigatory work and related uncompensated litigation in the Ninth Circuit for five years prior, Class Counsel are seeking a fee award of 35% of the total settlement fund. Subject to Court approval, Plaintiffs' counsel will also seek an Enhancement Award not to exceed $25,000 for the Mansors. (*Id.* § VII.A.)

E. Notice to the Class

The Settlement Agreement provides that the Receiver will send the form notice attached to the Settlement Agreement as Exhibit A by email to the Conditional Class Members within thirty days after the Court enters its order granting the Settlement preliminary approval. (*Id.* § IV.A.) In the event that an email notification is rejected after reasonable efforts are made to send it, the Receiver will notice to the class member by U.S. Mail. (*Id.*)

On the same date, the Receiver will also publish the Class Notice on the Millennium Bank Receivership website (https://millenniumbankreceivership.tklaw.com/). The Internet Notice will remain available up to and including the date of the Final Approval Hearing.

F. Opt-Out Rights

A Conditional Class Member who wishes to opt out of the Settlement Class must do so according to the terms in Section V.B of the Settlement Agreement, such Class Members to submit a timely, truthful, and complete written request for exclusion to the Receiver. All requests for exclusion must be postmarked no later than the Opt-Out Date defined in the Settlement Agreement.

Any Conditional Class Member who does not opt out as provided will be deemed a member of the Conditional Class and be bound by all subsequent proceedings, orders, and judgments.

G. Objections

Any potential Conditional Class Member who does not opt out may object to the Settlement. All objections must comply with the procedures and deadlines set forth in Section V.A of the Settlement Agreement and the Court's Order on Preliminary Approval. Written notices of objection must be filed with the Court and delivered to Class Counsel and Defense Counsel no later than the Objection Date, and must include (i) the class member's full name, current address, and current telephone number; (ii) documentation or attestation sufficient to establish membership in the Class; (iii) a statement of all grounds for the objection accompanied by any legal support for the objection; and (iv) copies of any other documents upon which the objection is based. Any Class Member who complies may appear, in person or by counsel, at the Final Approval Hearing held by the Court. Objecting Class Members who wish to be heard by the Court at the Final Approval Hearing must include in their written notices a statement of intent to appear in person.

H. Proposed Schedule Following Preliminary Approval

Event	Timing
Deadline for Class Counsel's Attorneys' Fee Application and Request for Enhancement Award	Within 15 days of entry of Conditional Order (Section VII.A)
Deadline for E-mailing/Mailing of Class Notice to members of the Settlement Class	Within 30 days of entry of Conditional Order (Section IV.A)
Deadline for Publishing Class Notice on Millennium Bank Receivership website	Within 30 days of entry of Conditional Order (Section IV.A.3)
Deadline for filing Objections and Requests to Opt Out of Settlement	Sixty days after date on which Class Notice is distributed/published
Deadline for Class Counsel to File declaration with List of Opt-Outs	No later than 30 days after the Opt-Out Date
Deadline for Filing Parties' Response(s) to Objections	No later than 7 days before the Final Approval Hearing
Final Fairness Approval Hearing	Approximately 60 days after the Opt-Out/Objection Date
Deadline for Receiver to Distribute Settlement	Within 30 days of the Effective Date, as defined in

Benefits	Section X.A
Payment of Attorneys' Fees and Enhancement Award to Class Representatives	Within 30 days after Receiver's receipt of Settlement Benefits

IV. THE SETTLEMENT WARRANTS PRELIMINARY APPROVAL.

Courts in the First Circuit recognize the strong presumption in favor of voluntary settlement agreements. "'[W]hen the court finds that: (1) the negotiations occurred at arm's length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected," a presumption of fairness attaches to the court's determination.'" *In re Lupron Mktg. & Sales Practices Litig.*, 345 F. Supp. 2d 135, 137 (D. Mass. 2004) (quoting *In re Gen. Motors Corp. Pick–Up Truck Fuel Tanks Prods. Liab. Litig.*, 55 F.3d 768, 785 (3d Cir.1995)); *see, e.g., In re Pharm. Indus. Average Wholesale Price Litig.*, 588 F.3d 24, 32–33 (1st Cir. 2009). The Court should afford the Settlement the benefit of that presumption.

A. The Parties Negotiated the Settlement at Arm's Length with an Experienced Mediator and Counsel.

In making a preliminary determination regarding a settlement's reasonableness, "the court considers whether the settlement is collusive between the parties or, instead, was reached through arm's length negotiation." *Scott v. First Am. Title Ins. Co.*, 2008 WL 2563460, at *2 (D.N.H. June 24, 2008) (citations omitted). Courts begin with a presumption of good faith in the negotiating process. *See Granada Invs., Inc. v. DWG Corp.*, 962 F.2d 1203, 1205 (6th Cir. 1992) ("Absent evidence of fraud or collusion, such settlements are not to be trifled with"); MANUAL FOR COMPLEX LITIGATION (THIRD) § 30.42) ("a presumption of fairness, adequacy and reasonableness may attach to a class settlement reached in arms-length negotiations between experienced, capable counsel").

The settlement terms in this case are the product of significant give and take by the settling parties, and were negotiated at arms' length. The parties mediated the settlement before the Honorable Margaret R. Hinkle, and thereafter continued to communicate routinely, negotiating

first the terms of an initial memorandum of understanding and then a final settlement agreement. Judge Hinkle has significant experience trying and mediating complex suits to resolution,[3] and the very fact of her involvement weighs in favor of preliminary approval. *See, e.g.*, *Milliron v. T-Mobile USA, Inc.*, 2009 WL 3345762, at *5 (D.N.J. Sept. 14, 2009) ("the participation of an independent mediator in settlement negotiations virtually insures that the negotiations were conducted at arm's length and without collusion between the parties") (citation and quotation marks omitted); *In re WorldCom, Inc. ERISA Litig.*, 2004 WL 2338151, at *6 (S.D.N.Y. 2004) (fact that "[a] respected and dedicated judicial officer presided over the lengthy discussions from which this settlement emerged" belied any suggestion of collusion in the negotiating process).

Throughout the course of the negotiations, Plaintiffs and the putative Conditional Class Members were represented by a team of attorneys with considerable experience prosecuting and settling class actions, including those involving alleged Ponzi schemes. *See* pp. 10-11, *infra*. Class Counsel's support of the Settlement also weighs in favor of preliminary approval. *Varacallo v. Mass. Mut. Life Ins. Co.*, 226 F.R.D. 207, 240 (D.N.J. 2005) ("[T]he Court puts credence in the fact that Class Counsel consider the Proposed Settlement to be fair, reasonable and adequate.").

B. The Parties Have Engaged in Considerable Discovery.

The parties' extensive negotiations were also informed by considerable discovery. The Mansors and other plaintiffs initiated this action in March 2012. [D.E. 1.] Since that time, the parties have exchanged numerous rounds of written discovery, produced more than 30,000 pages of documents, and participated in the depositions of at least fifteen critical witnesses, as well as expert and third-party depositions. Class Counsel also reviewed and used documents and depositions from the SEC's case against Wise and the Hoegels, and procured an affidavit from

[3] *See* https://www.jamsadr.com/hinkle (last visited 5/1/2018).

William Wise describing Chase's knowledge of and assistance to the Millennium fraud. *See* Plaintiffs' Motion for Class Certification Ex. G. The Parties' discovery here surpasses the standard for preliminary approval. *See, e.g., In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 334 (E.D.N.Y. 2010) (approving settlement where "[t]he parties were at an advanced stage in the case, and fully prepared for trial[,]" and "[d]efense and class counsel … 'had sufficient information to act intelligently'"); *In re Lupron Mktg. & Sales Practices Litig.*, 228 F.R.D. 75, 96–97 (D. Mass. 2005) (approving class action settlement in case that had been in litigation for "nearly four years before settlement was reached" because, *inter alia*, "[d]iscovery ha[d] been sufficient to give counsel an informed view of the strengths and weaknesses of plaintiffs' case").

In addition to formal discovery, Plaintiffs' Counsel Miller began investigating the Millennium fraud and possible claims against Chase in early 2009, interviewing more than two hundred witnesses, including Mr. Wise, his attorney, and the Hoegels, and hundreds of Millennium investors. Courts routinely consider informal discovery procured by counsel in analyzing class action settlements. *See, e.g., D'Amato v. Deutsche Bank*, 236 F.3d 78, 87 (2d Cir. 2001) ("although no formal discovery had taken place, the parties had engaged in an extensive exchange of documents and other information . . . [which] weighed in favor of settlement approval") (internal citation omitted); *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1239 (9th Cir.1998) ("formal discovery is not a necessary ticket to the bargaining table where the parties have sufficient information to make an informed decision about settlement.").

C. Plaintiffs' Counsel Are Experienced in Similar Litigation.

Plaintiffs' Counsel have considerable experience litigating class actions and other complex civil cases, including cases involving sophisticated Ponzi schemes. KTT has extensive class action experience, and has successfully litigated dozens of consumer and investor class actions to

settlement approval over the past fifteen years. *See, e.g.*, *Williams v. Wells Fargo Bank, N.A.*, No. 11-cv-21233 (S.D. Fla.); *LiPuma v. Am. Express Co.*, No. 04-cv-20314 (S.D. Fla.); *Bruhl v. Price WaterhouseCoopers Int'l*, No. 03-23044 (S.D. Fla.). Most recently, attorneys at KTT, including undersigned counsel, led a team representing investors in the Jay Peak Ponzi scheme in a suit against the scheme's architects and the financial institutions that assisted them. *See Daccache v. Raymond James Fin., Inc.*, No. 16-cv-21575 (S.D. Fla.). KTT also represented investors in the largest Ponzi Scheme in Florida history, masterminded by local attorney Scott Rothstein. *See Razorback Funding, LLC v. Rothstein*, No. 09-62943 (Fla. Cir. Ct. – 17th Jud. Cir.).

Plaintiffs' Counsel Keith L. Miller is a Boston attorney with more than thirty years of experience in complex litigation, including business and construction disputes, commercial real estate, insurance coverage, defective products, and malpractice claims. He also represents SEC-appointed receivers with respect to claims arising from fraud, and for aiding and abetting fraud.

D. The Settlement Will Provide Significant Relief to the Conditional Class Members.

Counsel cannot determine at this time what percentage of the class, if any, will object to the proposed settlement, as the deadline for objections falls sixty days after notice is issued to the class. Plaintiffs' counsel is confident, however, that objection to the Settlement will be minimal. The parties negotiated the Settlement at arms' length, and the monetary recovery to the class will be significant. Once Class Counsel fees, the Enhancement Award, and the Receiver's settlement administration expenses are paid, millions of dollars will remain in Settlement Benefits for the approximately 150-200 class members. And though class members will not secure complete recovery, the economic benefits of the Settlement must be weighed against the significant risk and expense that proceeding with litigation would have presented. *See, e.g., In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 74 (D. Mass. 2005) ("Although fully litigating the claims through trial could

possibly result in a higher recovery, the settlement represents a necessary compromise between inherent risks of doing so and a guaranteed cash recovery.").

V. THE COURT SHOULD CERTIFY THE CONDITIONAL CLASS.[4]

"The standards of Rule 23 for class certification are more easily met in the context of settlement than in the context of contested litigation." *Horton v. Metropolitan Life Ins. Co.*, 1994 U.S. Dist. LEXIS 21395, at *15 (M.D. Fla. Oct. 25, 1994). The Conditional Class here meets the requirements of numerosity, commonality, typicality, and adequacy of representation required by Rule 23(a) of the Federal Rules of Civil Procedure, as well as the requirements of Rule 23(b)(3).

A. The Rule 23(a) Requirements Are Satisfied.

Rule 23(a) sets forth four prerequisites for class certification: numerosity, commonality, typicality, and adequacy of representation. *Tyler v. Suffolk Cty.*, 253 F.R.D. 8, 9 (D. Mass. 2008); *see* Fed. R. Civ. P. 23(a). Plaintiffs here satisfy all four requirements as set forth below.

1. The Putative Class of Investors Satisfies the Numerosity Requirement.

To satisfy numerosity, "[p]laintiffs must overcome a relatively 'low threshold,' which does not impose a precise numerical requirement." *Connor B. ex rel. Vigurs v. Patrick*, 272 F.R.D. 288, 292 (D. Mass. 2011). "Although no specific threshold exists, a class size of forty or more will generally suffice in the First Circuit." *Reid v. Donelan*, 297 F.R.D. 185, 188-89 (D. Mass. 2014).

There are more than one hundred investors who meet the class definition residing throughout the United States. The significant number of investors together with their geographic dispersion weighs strongly in favor of a finding of numerosity. *See, e.g., Swack v. Credit Suisse First Boston*, 230 F.R.D. 250, 259 (D. Mass. 2005) (based on finding that "putative class comprise[d] hundreds, if not thousands, of geographically diverse members, . . . joinder [wa]s not

[4] These arguments are set forth more fully in Plaintiffs' Motion for Class Certification.

practicable and [plaintiff] . . . satisfied the numerosity prerequisite for class certification"). Accordingly, the numerosity requirement of Rule 23 is met.

2. The Proposed Conditional Class Satisfies the Commonality Requirement.

Rule 23(a)(2) requires class action plaintiffs to identify questions of law or fact common to the class. *See* Fed. R. Civ. P. 23(a)(2). Because "[a] *single* common legal or factual issue can suffice" to satisfy the 23(a)(2) requirement, 'the commonality requirement ordinarily is easily met.'" *Swack*, 230 F.R.D. at 259 (quoting *Payne v. Goodyear Tire & Rubber Co.*, 216 F.R.D. 21, 25 (D. Mass. 2003) (emphasis in original) (internal citations omitted). Where, as here, "'implementation of [a] common scheme is alleged, the commonality requirement is usually satisfied.'" *Glass Dimensions, Inc. v. State St. Bank & Tr. Co.*, 285 F.R.D. 169, 177 (D. Mass. 2012) (quoting *Overka v. Am. Airlines, Inc.*, 265 F.R.D. 14, 18 (D. Mass. 2010)).

Plaintiffs' claims center on Chase's alleged knowledge of, and substantial assistance provided to, the Millennium Fraud, and depend on allegations that Chase, through Ressler, knew that investors expected that their funds would be invested in CDs, but also observed "that no money was being used for any legitimate banking or investment activity[,]" Memorandum of Decision and Order on Defendant's Motion to Dismiss and to Strike [D.E. 364] at 28-29, and thus knew that Wise and the Hoegels were perpetrating a fraud. These allegations give rise to questions common to all class members claims, including, *inter alia*, whether Ressler (1) was aware of WaMu's and Chase's policies, practices, and procedures regarding identifying and reporting suspicious activity; (2) observed and engaged in activity at both banks that violated them, including lifting restraints on the Millennium accounts; (3) therefore, knew that Wise and the Hoegels were executing a fraudulent scheme when she removed restraints on the Millennium accounts at Chase on October 2008 and early 2009, and (4) intended to assist the Millennium fraud by her conduct.

Accordingly, "there are a substantial number of questions of fact and law that are common" to the proposed class, and Plaintiffs have satisfied Rule 23(a)(1). *See id.* at 326; *see, e.g., In re Beacon Assocs. Litig.*, 282 F.R.D. 315, 327 (S.D.N.Y. 2012) (plaintiffs had "little difficulty satisfying" commonality because their claims "depended centrally upon questions of representation and knowledge[,]" including assertions that defendants "withheld the same material information from all … investors"); *Bruhl v. Price Waterhousecoopers Int'l*, 257 F.R.D. 684, 698 (S.D. Fla. 2008) ("Class certification of the claims for aiding and abetting a breach of a fiduciary duty is appropriate because none of the claim's elements requires reliance or any other factor unique to each class member.").

3. Plaintiffs' Claims Are Typical of Those of the Class.

"The central inquiry in determining whether a proposed class has 'typicality' is whether the class representatives' claims have the same essential characteristics as the claims of the other members of the class." *Barry v. Moran*, 2008 WL 7526753 at *11 (D. Mass. Apr. 7, 2008). Named plaintiffs satisfy typicality "when their injuries and those of the class are caused by a common course of conduct by the defendants and the representative plaintiffs' claims 'are based on the same legal theory' as those of the class." *In re Citigroup, Inc. Capital Accumulation Plan Litig.*, 2010 WL 9067986, at *10 (D. Mass. Jan. 6, 2010), *aff'd* 652 F.3d 88 (1st Cir. 2011).

Chase's aiding and abetting liability as to Plaintiffs is the same as to the other class members; Chase's knowledge (or lack thereof)—acquired primarily through Ressler—did not vary with respect to individual investors, nor is Chase alleged to have assisted the fraud in a distinct manner as to any class member. Although individual damage amounts may vary, Plaintiffs allege that all class members were harmed in the same manner by Chase's wrongful conduct.

4. Plaintiffs and Their Counsel Will Fairly and Adequately Represent the Interests of the Class.

To satisfy Rule 23(a)(4), the representative parties must "fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(a)(4). "The First Circuit has interpreted the Rule 23(a)(4) adequacy prerequisite to entail a two part test: '[t]he moving party must show first that the interests of the representative party will not conflict with the interests of the class members, and second, that counsel chosen by the representative party is qualified, experienced and able to vigorously conduct the proposed litigation.'" *Swack*, 230 F.R.D. at 265. "[T]he existence of minor conflicts alone will not defeat a party's claim to class certification[.]" *Valley Drug Co. v. Geneva Pharm., Inc.*, 350 F.3d 1181, 1189 (11th Cir. 2003) (citations omitted).

5. Plaintiffs Do Not Have Interests Antagonistic to the Rest of the Class.

Courts find the adequacy requirement to be satisfied where the members of a proposed class "all have claims of qualitatively similar harms arising from an alleged common course of conduct by defendant." *In re New England Mut. Life Ins. Co. Sales Practices Litig.*, 183 F.R.D. 33, 40 (D. Mass. 1998). Indeed, "'only a conflict that goes to the very subject matter of the litigation will defeat a party's claim of representative status.'" *Lamphere v. Brown Univ.*, 71 F.R.D. 641, 650 (D.R.I. 1976) (quoting 7 Wright & Miller, FED. PRACTICE & PROC. § 1768 at 639). "In addition, [where a] class is certified pursuant to Rule 23(b)(3), which certification entails the requirement of notice to class members and an opportunity to 'opt out' of the class … there is an additional safeguard against possible antagonism among class members." *Brown v. Gillette Co.*, No. 75-3017-Z, 1980 WL 18615, at *3 (D. Mass. July 11, 1980).

Plaintiffs in this action have no interest antagonistic to those held by the rest of the class. All class members are investors subject to the same fraudulent scheme. "If the Plaintiffs succeed, the benefits will inure to all class members." *Tefel v. Reno*, 972 F. Supp. 608, 617 (S.D. Fla. 1997).

Win or lose, Plaintiffs' claims will turn on the same common proof every other class member's.

Plaintiffs have participated in discovery and been actively involved in this litigation from the beginning. They have suffered substantial losses as a result of the fraud, and will aggressively prosecute this case on behalf of the putative class. They have been deposed and are willing and able to see this action through. Plaintiffs have satisfied the requirements of Rule 23(a)(4).

6. Plaintiffs' Counsel Are Qualified and Experienced Attorneys Who Are More Than Capable of Conducting the Proposed Litigation.

The second prong of the adequate representation test is also satisfied. Under Rule 23(g)(1)(c), the Court must consider counsel's work identifying or investigating potential claims in the action; counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; counsel's knowledge of the applicable law; and the resources counsel will commit to representing the class. The Court may also consider "any other matter pertinent to counsel's ability to fairly and adequately represent the class's interests." Fed. R. Civ. P. 23(g)(1)(c)(ii). Plaintiffs' counsel satisfy these standards. *See* pp. 11-14, *supra*. *Cf. Swack*, 230 F.R.D. at 267 (adequacy satisfied where "counsel ha[d] broad-based experience in complex litigation," and specifically in litigating securities fraud claims)).

Additionally, the attorneys named above are well respected in the communities that they serve. "[T]he single most important factor considered by the courts in determining the quality of the representative's ability and willingness to advocate the cause of the class has been the caliber of the plaintiff's attorney." 1 NEWBERG ON CLASS ACTIONS 3d (1992) § 3.24 at 3-133 n.353. Plaintiffs' counsel have overseen litigation strategy, the briefing and argument of motions, including briefing of Defendants' motions to dismiss, and the vigorous pursuit of discovery. The efforts of Plaintiffs' counsel to date confirm that they are committed to the vigorous prosecution of this action and possess the skills necessary for such efforts.

B. The Court Should Certify the Proposed Settlement Class Under Rule 23(b)(3).

Under Rule 23(b)(3), certification is appropriate if (1) common questions of law or fact predominate over those affecting only individual class members and (2) class treatment is superior to other adjudication methods. *See* Fed. R. Civ. P. 23(b)(3). The latter question implicates manageability concerns, which do not bear on settlement class certification. *See In re StockerYale, Inc. Sec. Litig.*, 2007 WL 4589772, at *3 (D.N.H. Dec. 18, 2007).

A. Common Questions of Law and Fact Predominate Because Legal and Factual Questions Would Be Resolved with Proof Common to Plaintiffs and the Class.

"The First Circuit has held that [predominance] is satisfied where, notwithstanding individualized concerns, 'a sufficient constellation of common issues binds class members together.'" *Overka v. Am. Airlines, Inc.*, 265 F.R.D. 14, 19 (D. Mass. 2010) (citation omitted). "Rule 23(b)(3) requires merely that common issues predominate, not that all issues be common to the class." *Smilow*, 323 F.3d at 39. "'A single, central issue' as to the defendant's conduct vis a vis class members can satisfy the predominance requirement even when other elements of the claim require individualized proof." *Payne*, 216 F.R.D. at 27 (citation omitted).

Chase argued on class certification that individual issues of reliance arising from the underlying fraud would defeat class certification, but even were that the case, the litigation would have focused on Chase's knowledge and conduct in assisting the Millennium Fraud. *See, e.g., George Lussier Enters., Inc. v. Subaru of New England*, No. Civ. 99-109-B, 2001 WL 920060, at *18 (D.N.H. Aug. 3, 2001) (individual reliance questions did not defeat common issues where "plaintiffs' claims focus[ed] on defendants' class-wide conduct, not on defendants' individual interactions with [class members]"); *Walco Invs., Inc. v. Thenen*, 168 F.R.D. 315, 334 (S.D. Fla. 1996) ("The existence of a few questions of individual reliance are not sufficient, on balance, to negate the predominance of common issues of law and fact present in this case.").

At trial, the evidence presented by both sides would have gone to prove or disprove Chase's aiding and abetting liability as to all class members. *See, e.g., Joint Equity Comm. of Inv'rs of Real Estate Partners, Inc. v. Coldwell Banker Real Estate Corp.*, 281 F.R.D. 422, 434 (C.D. Cal. 2012) ("Predominance is satisfied on Plaintiffs' claim for aiding and abetting because questions of assistance and knowledge focus on Coldwell, not the alleged victims.") (citing *Jenson,* 256 F. App'x at 926 ("[Defendant] either knew of [the third party's] scheme to defraud and took steps substantially to advance the scheme or it didn't. Either way, its knowledge and assistance (if any) predominates as a common issue.")). Common questions will predominate over individualized issues; thus, Plaintiffs have satisfied Rule 23(b)(3).

B. A Class Action Is Superior to Adjudication of Individual Claims.

"A class action is the superior method if it will 'achieve economies of time, effort, and expense, and promote ... uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results.'" *Lannan v. Levy & White*, 186 F. Supp. 3d 77, 90 (D. Mass. 2016) (quoting *Amchem,* 521 U.S. at 615, 117 S.Ct. 2231).

Here, as in *Walco* "it would be extremely costly, not to mention unnecessarily duplicative, for a class member to try this action separately [because] … each and every class member [would be] faced with the obstacle of having to establish the existence of the alleged … Ponzi scheme." 168 F.R.D. at 337. Litigating the claims raised against Chase individually would be burdensome for investors, facing a sophisticated defendant and counsel, and complex facts, claims, and legal theories that will require the discovery of significant documentary evidence and both lay and expert testimony. These concerns weigh strongly in favor of a class action. *See, e.g., Michaud v. Monro Muffler Brake, Inc.*, 2015 WL 1206490, at *5 (D. Me. Mar. 17, 2015) ("Requiring multiple, near-identical suits would create an unnecessary burden for class members and the courts."); *Otte ex rel. Estate of Reynolds v. Life Ins. Co. of N. Am.*, 275 F.R.D. 50, 59 (D. Mass. 2011) ("the size of

the proposed class makes clear that 'piecemeal adjudication of claims covering substantially similar issues would be an inefficient allocation of court resources.'").

Litigating class members' claims individually would also maximize the risk of inconsistent outcomes. *See, e.g., Soutter v. Equifax Info. Servs., LLC*, 307 F.R.D. 183, 218 (E.D. Va. 2015) (citing "risk generating inconsistent outcomes on the same essential facts"). A class action settlement resolves the vast majority of the class claims efficiently and with one stroke.

VI. THE COURT SHOULD NAME THE UNDERSIGNED AS CLASS COUNSEL.

The parties have defined Class Counsel to include KTT and Keith L. Miller, Esq.. (Ex. A ¶ 2.14.) As explained above, undersigned counsel have significant experience litigating class actions and complex commercial cases, including those involving Ponzi schemes. Counsel's investigation into these claims began more than nine years ago, and since that time, counsel has, *inter alia*, taken significant formal and informal discovery from Chase, experts, and third parties, briefed and argued numerous dispositive motions, and moved for certification of a nationwide litigation class. Because undersigned counsel are highly qualified and determined to represent the best interests of the Class, the Court should appoint them Class Counsel moving forward.

VII. THE FORM AND MANNER OF NOTICE ARE PROPER

The manner in which the Class Notices are disseminated, as well as their content, must satisfy Rule 23(c)(2) (governing class certification notice), Rule 23(e)(1) (governing settlement notice), and due process. *See In re Ocean Power Techs, Inc.*, No. 3:14-cv-3799 2016 WL 6778218, at *9 (D.N.J. Nov. 15, 2016). These requirements are adequately satisfied here.

Rule 23(c)(2)(B) requires "the best notice that is practicable under the circumstances." In addition, Rule 23(e)(1) provides that, in the event of a class settlement, "[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal." The notice must be 'reasonably calculated, under all the circumstances, to apprise interested parties of

the pendency of the action and afford them an opportunity to present their objections.'" *Hill v. State St. Corp.*, 2015 WL 127728, at *14 (D. Mass. Jan. 8, 2015). The method of providing notice must also be 'reasonably calculated to reach interested parties.'" *Id.* (citation omitted); *see also Reppert v. Marvin Lumber & Cedar Co.*, 359 F.3d 53, 56 (1st Cir. 2004) ("Individual notice of class proceedings is not meant to guarantee that every member … receives such notice, but ... the notice ordered [must be] reasonably calculated to reach the absent class members.").

The proposed Class Notice and notice plan satisfy these requirements. The proposed Class Notice is written in plain terminology, and includes (1) descriptions of the Conditional Class, the claims asserted, and the Settlement and release of claims; (2) the deadlines for opt-outs and objections; (3) the identity of counsel for the Settlement Class; (4) the Final Approval Hearing date; and (5) the criteria for appearing at the Final Approval Hearing. In addition, pursuant to Rule 23(h), the proposed Class Notice sets forth the amounts of Attorneys' Fees and Expenses and Case Contribution Awards that will be sought pursuant to the Settlement Agreement.

The notice plan likewise satisfies all requirements. The Receiver will send the Class Notice by email to all Conditional Class Members. In the event that email notification to a Conditional Class Member is rejected because the email address is no longer valid, or is otherwise unsuccessful after reasonable efforts, the Receiver will send the member the Class Notice by U.S. mail addressed to the most current addresses maintained by the Receiver. The Receiver will also publish the full text of the Class Notice on the Millennium Bank Receivership website.

The proposed notices and notice plan comply with the standards of fairness, completeness, and neutrality required of a settlement class notice disseminated under authority of the Court.

VII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion for Preliminary Approval, and enter the attached Proposed Order.

Dated: June 21, 2018

Respectfully submitted,

Counsel for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June, 2018, a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court, is available for viewing and downloading from the ECF system, and will be served by operation of the Court's electronic filing system (CM/ECF) upon all counsel of record.

/s/ Harley S. Tropin

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EDMUND J. MANSOR and ROBERTA M. MANSOR, Plaintiffs, v. JPMORGAN CHASE BANK, N.A., Defendant.	)	Civil Action No. 1:12-cv-10544-JGD

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made by and between defendant JPMorgan Chase Bank, N.A. ("Chase") and plaintiffs Edmund J. Mansor and Roberta M. Mansor (the "Mansors"), as individuals and as representatives of the Settlement Class defined below (the "Class Representatives"), (Chase and the Mansors, together, the "Parties") in the above-captioned action (the "Action").

DEFINITIONS

"Attorneys' Fees and Expenses" means the amount awarded by the Court to Class Counsel in this Action for attorneys' fees, costs, and expenses.

"CAFA Notice" means notice of the Settlement to the appropriate federal and/or state officials, as required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and as further described in Section VI.

"Class Counsel" means the attorneys and law firms listed on the signature page of this Agreement representing the Mansors and the Settlement Class.

"Class Notice" means the Notice of Pendency and Proposed Settlement of Class Action that shall be substantially in the form attached hereto as Exhibit A.

"Class Period" means the period of time extending from September 25, 2008 through and including March 9, 2009.

"Conditional Class Member" means and includes each Person who has been identified from records maintained by the Receiver and falls within the definition of the Settlement Class without regard to whether that Person validly and timely requests exclusion from the Settlement Class.

"Conditional Order" means the conditional order from the Court granting preliminary approval of the Settlement; conditionally certifying the Settlement Class; approving the Class Notice and the proposed method of disseminating such notice to the Settlement Class set forth in Section IV; approving the schedule and procedure for opt-outs and objections set forth in Section V; and setting a date for a Final Approval Hearing, substantially on the terms set forth in the [Proposed] Preliminary Approval Order attached hereto as Exhibit B.

"Court" means the United States District Court for the District of Massachusetts.

"Defendant's Counsel" means the attorneys and law firm listed on the signature page of this Agreement representing Chase.

"Effective Date" shall have the meaning as set forth in Section X.A.

"Enhancement Award" means the one-time payment in the amount to be approved by the Court pursuant to Section II.B to the Class Representatives for the time, effort, and resources they have put into representing the Settlement Class and prosecuting this Action.

"Final Approval" means an order of the Court holding that the requirements for certification of the Settlement Class have been met; holding that the proposed Settlement is finally approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; awarding Attorneys' Fees and Expenses; awarding the Enhancement Award; and entering a final

Judgment dismissing the Action and all claims asserted therein on the merits and with prejudice as against the Class Representatives and the Settlement Class Members.

"Final Approval Hearing" means the hearing at which the Court will determine whether the requirements for certification of the Settlement Class have been met; whether the proposed Settlement should be finally approved as fair, reasonable, adequate, and in the best interests of the Settlement Class Members; the amount of Attorneys' Fees and Expenses to be awarded to Class Counsel; the amount of the Enhancement Award to be awarded to the Class Representatives; and whether to enter a final Judgment dismissing the Action and all claims asserted therein on the merits and with prejudice as against the Class Representatives and the Settlement Class Members.

"Internet Notice" means the Internet page setting forth the full text of the Class Notice.

"Judgment" means the final judgment entered in the Action.

"Notice Date" means the deadline for the Receiver to send the Class Notice to Conditional Class Members as set forth in Section IV.A.

"Objection Date" means the deadline for Conditional Class Members to file with the Court and deliver to Class Counsel and Defendant's Counsel a notice identifying the grounds for any objection to the Settlement. The Objection Date will be sixty (60) days after the Notice Date even if the Objection Date falls on a Saturday, Sunday, or legal holiday.

"Opt-Out Date" means the deadline for Conditional Class Members to postmark requests to opt out of, and be excluded from, the Settlement Class. The Opt-Out Date will be sixty (60) days after the Notice Date even if the Opt-Out Date falls on a Saturday, Sunday, or a legal holiday.

"Person" means a natural person, individual, corporation, partnership, limited partnership, association, joint venture, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity.

"Receiver" means Richard B. Roper of Thompson & Knight LLP, 1722 Routh Street, Suite 1500, Dallas, Texas 75201, who has been appointed the receiver for Millennium Bank in *SEC v. Millennium Bank, et al.*, United States District Court for the Northern District of Texas, Civ. A. No. 7:09-cv-00050-O (the "Millennium Receivership") and who shall act as settlement administrator and be responsible for processing and mailing the Class Notice, distributing the Settlement Benefits to Settlement Class Members, and the other duties described herein. By signing this Agreement, the Receiver accepts the duties and obligations of the settlement administrator specified herein.

"Receiver Fees" means the reasonable expenses of the Receiver incurred in connection with processing and mailing the Class Notice, distributing the Settlement Benefits to Settlement Class Members, or any other duties described herein.

"Released Claims" shall have the meaning as set forth in Section VIII.B.1.

"Released Persons" shall have the meaning as set forth in Section VIII.B.1.

"Settlement" means the terms and conditions set forth in this Agreement and all exhibits hereto, with such modifications as may be agreed to in writing by the Parties and approved by the Court.

"Settlement Benefits" means the consideration being provided to Settlement Class Members pursuant to Section II.A.1.

"Settlement Class" shall have the meaning as set forth in Section I.A.

"Settlement Class Member" means and includes each Conditional Class Member who does not validly and timely request exclusion from the Settlement Class.

RECITALS

This Agreement is made for the following purposes and with reference to the following facts:

A. On March 23, 2012, Geoffrey A. Hollis, Sharon R. Hollis, and the Mansors, individually and in their capacity as putative class representatives, instituted the Action against Chase in this Court.

B. On January 24, 2014, the Hollises and the Mansors filed their First Amended Verified Class Action Complaint in this Action.

C. On February 28, 2014, Chase moved to dismiss the First Amended Verified Class Action Complaint and to strike the Hollises as class representatives. On December 10, 2014, the Court allowed Chase's motion.

D. On March 13, 2015, the Mansors filed the operative complaint in this Action, the Second Amended Verified Complaint. The Second Amended Verified Complaint alleges that Chase aided and abetted a Ponzi scheme run primarily by William Wise through companies affiliated with Wise. The Second Amended Verified Complaint asserts claims for aiding and abetting common law fraud and negligence (together, the "Claims") and requests compensatory relief. On April 26, 2016, the Court dismissed the Mansors' claim for negligence.

E. On June 3, 2016, Chase filed an Amended Answer to the Second Amended Verified Complaint, generally denying the Mansors' allegations and asserting various affirmative defenses.

F. On December 12, 2016, the Mansors sought leave of the Court to file a Third Amended Verified Complaint. On September 18, 2017, the Court denied the Mansors' motion.

G. On December 19, 2017, the Mansors filed a motion for class certification; on January 19, 2018, Chase filed its opposition; and on February 20, 2018, the Mansors filed their reply.

H. Chase disputes the Claims and enters into this Agreement without in any way acknowledging any fault, liability, or wrongdoing of any kind. Chase nonetheless has concluded that it is in its best interests that the Action be settled on the terms and conditions set forth herein in light of the expense that would be necessary to defend the Action, the benefits of disposing of protracted and complex litigation, and its desire to conduct its business unhampered by the distractions of continued litigation.

I. Class Counsel and the Class Representatives believe that the Claims possess merit and would prevail but recognize that there is no assurance of success at trial. They have examined and considered the benefits to be obtained under this Agreement, the risks associated with the continued prosecution of this complex and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel have conducted extensive discovery of Chase, have fully investigated the facts and law relevant to the merits of the Claims, and have concluded that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. In consideration of all of these circumstances, the Class Representatives have concluded that the Settlement is fair, adequate, reasonable, and in the best interests of the Settlement Class.

J. The Parties now desire to settle the Action in its entirety with respect to all claims asserted or which could have been asserted in the Action arising from the allegations of the Second Amended Verified Complaint. The Parties intend this Agreement to bind Chase; the

Mansors, individually and in their capacity as the Class Representatives; and all Settlement Class Members.

NOW THEREFORE, in light of the foregoing, for good and valid consideration, the Parties, and each of them, hereby warrant, represent, acknowledge, covenant, and agree, subject to approval by the Court, as follows:

I. CERTIFICATION OF THE SETTLEMENT CLASS

A. Definition of the Settlement Class.

The "Settlement Class" shall be defined as follows:

> All persons who purchased or otherwise acquired Millennium CDs or whose funds remained in the Millennium accounts at Chase from September 25, 2008 through March 9, 2009, which includes persons whose CDs purportedly rolled over or whose funds were deposited in or remained in the Millennium accounts at Chase.
>
> Excluded from this class are Defendant, its affiliates, subsidiaries, agents, board members, directors, officers, and/or employees.

B. Agreement Respecting Conditional Certification.

The Parties stipulate and agree that, subject to Court approval, the Settlement Class described in Section I.A shall be conditionally certified solely for purposes of the Settlement. Concurrently with the filing of this Agreement, the Class Representatives shall move the Court for an order conditionally certifying a settlement class that conforms to the definition of the Settlement Class in Section I.A. Chase hereby consents to such a motion, and, contemporaneously with the Class Representatives' motion for an order conditionally certifying a settlement class, Chase shall file a consent to the relief requested. If, for any reason except to increase or decrease the amount of Attorneys' Fees and Expenses or the Enhancement Award as provided for in Section VII, the Court denies the Class Representatives' motion or does not approve this Agreement or if Chase exercises its discretion under Section V.C to declare this

Agreement null and void, Chase's consent to the relief requested in the Class Representatives' motion for an order conditionally certifying a settlement class and any conditional order of class certification shall be null and void and may not be referred to or used as evidence or for any other purpose whatsoever in the Action or any other action or proceeding.

C. Identification of Conditional Class Members.

Contemporaneously with the Class Representatives' motion for an order conditionally certifying a settlement class, Class Counsel, with the assistance of the Receiver, shall provide to Defendant's Counsel a list of those believed to be Conditional Class Members, along with the net losses as identified by the Receiver and the state of residence for each person. Defendant's Counsel shall, within fifteen (15) days after receiving such list of Conditional Class Members, notify Class Counsel if it knows of information indicating that such Person is not, in fact, a Conditional Class Member. The Parties and the Receiver, shall, thereafter, work cooperatively to resolve any such disagreements in advance of the deadline for providing Class Notice set forth in Section IV.A.

II. CONSIDERATION FOR SETTLEMENT

A. Consideration to Settlement Class Members.

1. Settlement Benefits. Chase agrees to provide the following consideration to Settlement Class Members (the "Settlement Benefits"). No later than thirty (30) days after the Effective Date and subject to Section V.B. herein, Chase will pay four million, six hundred twenty-five thousand U.S. dollars (US$4,625,000.00), by check or wire transfer to the Receiver. Each Settlement Class Member shall be entitled to a pro rata share of the Settlement Benefits based on their net losses as identified by the Receiver, net of the Attorneys' Fees and Expenses, Enhancement Award, and Receiver Fees.

2. Cy-Pres. Any portion of the Settlement Benefits that is unable to be paid to any Settlement Class Member shall be placed in a charitable trust and distributed to a mutually agreed-upon charity approved by the Court no sooner than one hundred eighty (180) days after the Effective Date.

3. Proof of Claim. Conditional Class Members shall be automatically eligible to recover a pro rata portion of the Settlement Benefits, as described in Section II.A.1, and shall not be required to submit further proof of their claims. The Receiver shall, in consultation with Class Counsel, identify Conditional Class Members from records that have been submitted to and are maintained by the Receiver, including, without limitation, Millennium Bank Receivership Claim Notification Forms and supporting documents submitted therewith. Chase shall not be liable for errors made by the Receiver and/or Class Counsel with respect to identifying, contacting, or distribution of Settlement Benefits to the Conditional Class Members.

4. Distribution of Settlement Benefits. Within thirty (30) days after receiving the Settlement Benefits, the Receiver shall distribute the Settlement Benefits by check or wire transfer to the Settlement Class Members.

B. Enhancement Award to the Class Representative.

Within thirty (30) days after receiving the Settlement Benefits, the Receiver shall pay from the Settlement Benefits the Enhancement Award to the Class Representatives in an amount approved by the Court as set forth in Section VII.

C. Attorneys' Fees and Expenses.

Within thirty (30) days after receiving the Settlement Benefits, the Receiver shall pay from the Settlement Benefits the Attorneys' Fees and Expenses to Class Counsel in an amount approved by the Court as set forth in Section VII.

D. Receiver Fees.

Within thirty (30) days after receiving the Settlement Benefits, the Receiver shall pay from the Settlement Benefits any fees or expenses incurred in connection with processing and mailing the Class Notice, distributing the Settlement Benefits to Settlement Class Members, or administering the Settlement as set forth in Section IV shall be paid from the Settlement Benefits. The Parties anticipate that the Receiver Fees will be approximately thirty thousand U.S. dollars (US$30,000.00).

III. OBTAINING COURT APPROVAL OF THE AGREEMENT

A. Concurrently with the filing of this Agreement, the Class Representatives shall take all necessary steps to obtain a Conditional Order, which Chase consents to, from the Court substantially on the terms set forth in the form attached hereto as Exhibit B granting preliminary approval of this Agreement; conditionally certifying the Settlement Class; approving the Class Notice and the method of disseminating such notice to the Settlement Class as set forth herein; approving the schedule for opt-outs and objections as set forth herein, and setting a date for a Final Approval Hearing approximately sixty (60) days after the Opt-Out Date.

B. If the Court does not approve this Agreement for any reason, except to increase or decrease the amount of Attorneys' Fees and Expenses or the Enhancement Award as provided for in Section VII, the Agreement shall terminate and be of no force or effect, unless the Parties voluntarily agree in writing to modify this Agreement in a manner sufficient to obtain Court approval.

IV. CLASS NOTICE

The Parties agree to, and concurrently with the filing of this Agreement the Class Representatives shall move the Court for, an order approving the following form and method of notice to the Settlement Class:

A. Within thirty (30) days after the entry of the Conditional Order, or prior to such other date to which the Parties agree and which is approved by the Court, the Receiver shall provide the Class Notice to all Conditional Class Members in the following manner:

1. The Receiver shall send the Class Notice by email to all Conditional Class Members. In the event that such an email notification to a Conditional Class Member is rejected because the email address is no longer valid, or is otherwise unsuccessful after reasonable efforts to send such an email notification, the Receiver shall send the member a mailed notice as set forth in Section IV.A.2.

2. The Receiver shall send all other Conditional Class Members the Class Notice by U.S. mail addressed to the most current addresses maintained for such Persons by the Receiver.

3. Concurrently with sending the Class Notice pursuant to Section IV.B.1 or 2, the Receiver shall launch the Internet Notice by making available on the Millennium Bank Receivership website (https://millenniumbankreceivership.tklaw.com/) the full text of the Class Notice. The Internet address for the Internet Notice shall be set forth conspicuously in the Class Notice. The Receiver shall continue to make the Internet Notice available up to and including the date of the Final Approval Hearing.

4. The Receiver shall not be obligated to send more than one (1) copy of the Class Notice per request received from any Conditional Class Member.

B. The Parties agree that the form of the Class Notice regarding the Action and this Agreement and the method of dissemination to Conditional Class Members in accordance with the terms of this Agreement constitute the best notice practicable under the circumstances and constitute valid, due, and sufficient notice to all Conditional Class Members, complying fully

with all substantive and procedural due process rights guaranteed by the United States Constitution, and any other applicable laws.

V. OBJECTIONS; EXCLUSIONS FROM SETTLEMENT CLASS

A. Objections.

The Parties stipulate to, and concurrently with the filing of this Agreement the Class Representatives shall move the Court for, an order approving the following procedures for objections, if any:

1. Any Conditional Class Member who objects to the Settlement shall have a right to appear and be heard at the Final Approval Hearing, provided that, no later than the Objection Date, such Conditional Class Member files with the Court and delivers to Class Counsel and Defendant's Counsel a written notice identifying the following information in writing: (i) full name, current address, and current telephone number; (ii) documentation or attestation sufficient to establish membership in the Class; (iii) a statement of all grounds for the objection accompanied by any legal support for the objection; and (iv) copies of any other documents upon which the objection is based.

2. Class Counsel and Defendant's Counsel each may, but need not, respond to such objections, if any, by means of separate or consolidated memoranda of fact and/or law filed and served no later than seven (7) days before the Final Approval Hearing.

3. Other than the Class Representatives, the only Conditional Class Members who will be entitled to be heard at the Final Approval Hearing are those who have filed and delivered timely, written notices of objection stating an intent to appear in person and those Conditional Class Members who do not object, but who file with the Court and deliver to Class Counsel a written notice of appearance.

4. Any Conditional Class Member who either (i) does not make an objection in the manner provided herein or (ii) requests exclusion from the Settlement Class in the manner set forth in Section V.B shall be deemed to have waived any and all such objections and shall forever be barred and precluded from making any objection to the Settlement, the award of Attorneys' Fees and Expenses to Class Counsel, or the Enhancement Award, unless otherwise ordered by the Court.

B. Exclusion from Settlement Class.

The Parties stipulate to, and concurrently with the filing of this Agreement the Class Representatives shall move the Court for, an order approving the following procedures for exclusion from the Settlement Class:

1. Any Conditional Class Member may seek to be excluded from the Settlement Class, and consequently, from receipt of the Settlement Benefits. To be excluded from the Settlement Class, a Conditional Class Member must submit a timely, truthful, complete, and effective written request for exclusion to the Receiver. Any excluded Conditional Class Member shall not be bound by the Agreement or the Settlement and shall not be entitled to any of the Settlement Benefits. The request for exclusion must be submitted in the excluded Conditional Class Member's own name: no individual Conditional Class Member may request that any other Conditional Class Member be excluded from the Settlement Class. Nothing in this paragraph shall preclude an attorney for a Conditional Class Member from submitting a request for exclusion on behalf of that Conditional Class Member.

2. To be complete, a request for exclusion must contain the excluded Person's name, current business or home address, and telephone number.

3. To be timely, a request for exclusion must be postmarked no later than the Opt-Out Date.

4. The request for exclusion must make clear that exclusion is sought by stating the following, or words reasonably to the same effect: "I want to be excluded from the Settlement Class."

5. The request for exclusion must include the original signature (not a photocopy or facsimile) of the Conditional Class Member seeking exclusion or, if the Conditional Class Member is other than a natural person, that of an attorney or other authorized representative of the Conditional Class Member. The Receiver shall, within fifteen (15) days after the Opt-Out Date, provide to Class Counsel and Defendant's Counsel copies of any and all requests for exclusion received as of that date along with a list of the Conditional Class Members requesting exclusion and the amount of each person's net losses as identified by the Receiver. No later than thirty (30) days after the Opt-Out Date, Class Counsel shall file with the Court a declaration that includes a list of Conditional Class Members, if any, who submitted valid requests for exclusion. The original requests for exclusion shall be maintained by Class Counsel until the Effective Date.

C. Total Op-Outs from Settlement Class.

If Conditional Class Members who purportedly invested and lost, in the aggregate, six hundred fifty thousand U.S. dollars (US$650,000.00) or more in purported Millennium CDs opt out of the Settlement, Chase has the option, in its sole and unfettered discretion, to declare this Agreement null and void. Chase shall exercise its discretion under this section no later than ten (10) court days before the Final Approval Hearing and shall notify Class Counsel and the Court of its decision under this section concurrently with filing the declaration required under Section V.B.5. If Chase exercises its discretion under this section to declare this Agreement null and void, then the parties shall, within five (5) court days thereafter, request that the Court hold a status conference to determine the schedule on which the Action shall proceed.

VI. CLASS ACTION FAIRNESS ACT NOTICE

The Parties agree that the Class Action Fairness Act, 28 U.S.C. § 1715 ("CAFA"), applies to the Action. The Parties further agree that Defendant's Counsel shall serve a CAFA Notice of the Settlement on the appropriate federal and/or state officials not later than ten (10) days after the filing of this Agreement with the Court. The Parties agree that service of the CAFA Notice (when supplemented by all necessary information and exhibits) shall satisfy the requirements of this Section VI. Chase shall file with the Court a certification of the date(s) upon which the CAFA Notice was served.

VII. PAYMENT OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES TO CLASS COUNSEL; PAYMENT TO THE CLASS REPRESENTATIVES

A. The Parties agree that, within fifteen (15) days after the Conditional Order, Class Counsel will make an application to the Court for (1) an award of reasonable Attorneys' Fees and Expenses in an amount not to exceed 35% of the Settlement Benefits, and (2) approval of an Enhancement Award to the Class Representatives in an amount not to exceed the agreed maximum amount of twenty-five thousand U.S. dollarts (US$25,000.00). The Parties agree that Chase reserves the right to object to Class Counsel's application for the Attorneys' Fees and Expenses, but that the amount the Court awards for Attorneys' Fees and Expenses and approves as an Enhancement Award shall be binding on the Parties.

B. The Attorneys' Fees and Expenses, Enhancement Award, and Receiver Fees shall be paid from the Settlement Benefits, and except as expressly provided in this Agreement, Chase shall not be liable for any fees or expenses of Class Counsel, the Class Representatives, the Receiver, or any Settlement Class Member in connection with the Action. Class Counsel agree that they will not seek any fees or costs directly from Chase in connection with the Action. Neither Party shall have the right to withdraw from or to void this Agreement or the Settlement

solely because the Court awards Attorneys' Fees and Expenses or approves an Enhancement Award in an amount different than the amount requested by Class Counsel. Chase agrees that, after the Effective Date, it will not seek to recover its court costs, attorneys' fees, or expenses.

VIII. FINAL JUDGMENT APPROVING SETTLEMENT AND DISMISSING CLAIMS OF SETTLEMENT CLASS MEMBERS WITH PREJUDICE; RELEASE OF CLAIMS BY SETTLEMENT CLASS MEMBERS

A. Entry of Judgment.

Upon Final Approval of the Settlement, a Judgment shall be entered dismissing the claims of the Settlement Class Members and the Class Representatives with prejudice.

B. Release of Claims.

1. Upon the Effective Date, the Class Representatives for themselves and on behalf of each Settlement Class Member, and their respective heirs, executors, administrators, representatives, successors, and assigns, hereby fully and irrevocably releases, forever discharges, and covenants not to sue Chase and, whether or not specifically named herein, each of Chase's past, present, or future directors, officers, employees, principals, agents, shareholders, attorneys, legal representatives, accountants, auditors, predecessors, successors, parents, subsidiaries, divisions, assigns, and related or affiliated entities ("Released Persons"), from or in connection with any and all liabilities, claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements, damages, costs, attorneys' fees, losses, expenses, obligations, or demands, of any kind whatsoever, whether known or unknown, existing or potential, or suspected or unsuspected, whether raised by claim, counterclaim, setoff, or otherwise, including any known or unknown claims, which were asserted or which could have been asserted in the Action, including without limitation all claims arising out of or relating in any way to Millennium Bank, UT of S, LLC, United T of S, LLC, United Trust of Switzerland, Sterling I.S., LLC, or any entity associated with William Wise (the "Released Claims").

2. The Parties hereby acknowledge that they have been advised by their respective legal counsel in connection with this Agreement. The Class Representatives, on behalf of themselves and the Settlement Class Members, hereby acknowledge that they may hereafter discover claims and/or facts in addition to or different from those that they now believe to be true with respect to the subject matter of the Released Claims, but agree that they have taken that possibility into account in entering into this Agreement and that the releases and waivers given herein shall be and remain in effect as full and complete releases and waivers notwithstanding the discovery or existence of any such additional or different claims and/or facts, as to which the Class Representatives and the Settlement Class Members expressly assume the risk. The Parties acknowledge that the foregoing release and waiver was bargained for and was a key element of this Agreement.

C. Notwithstanding the entry of Judgment, the Court shall retain exclusive and continuing jurisdiction and exclusive venue with respect to the consummation, implementation, enforcement, construction, interpretation, performance, and administration of the Agreement (including all exhibits thereto), the Conditional Order, and the Judgment. The Parties agree to submit any disputes to this Court's exclusive and continuing jurisdiction and exclusive venue for the purposes described above.

D. Upon the Effective Date, each and every Settlement Class Member and any and all successors in interest shall be permanently enjoined and forever barred from prosecuting the Released Claims against Chase and/or the Released Persons.

IX. CHASE'S DENIAL OF LIABILITY; AGREEMENT AS DEFENSE IN FUTURE PROCEEDINGS

A. Chase enters into this Agreement without in any way acknowledging any fault, liability, or wrongdoing of any kind. Chase nonetheless has concluded that it is in its best

interests that the Action be settled on the terms and conditions set forth herein in light of the expense that would be necessary to defend the Action, the benefits of disposing of protracted and complex litigation, and its desire to conduct its business unhampered by the distractions of continued litigation.

B. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, are or may be construed as an admission or concession by Chase of the truth of any of the allegations in the Action or the Second Amended Verified Complaint, or of any fault, liability, or wrongdoing of any kind, nor as an admission or concession by the Class Representatives of any lack of merit of the Claims.

C. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding for any purpose (other than an action or proceeding to enforce the terms hereof).

D. To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted for Released Claims pursuant to this Agreement. Class Counsel shall cooperate in seeking the stay or dismissal of any other action concerning the subject matter of this Settlement prior to the Effective Date.

X. ADMINISTRATIVE AND IMPLEMENTATION MATTERS

A. Effective Date.

The "Effective Date" of the Settlement shall be the first day after which all of the following events and conditions of this Agreement have been met or have occurred:

1. The Class Representatives, Class Counsel, Chase, and Defendant's Counsel have executed this Agreement;

2. The Court has conditionally certified the Settlement Class, preliminarily approved the Settlement, and approved the Class Notice by entry of an order substantially conforming to the terms set forth in Exhibit B hereto;

3. The Court has issued an Order granting Final Approval of the Settlement and has signed the Judgment; and

4. The Judgment has become final and conclusive and all rights to appeal have been exhausted and all appeals, if any, have been resolved. If the Judgment is set aside, materially modified, or overturned by the Court or on appeal, and is not fully reinstated on reconsideration, re-argument, remand, or further appeal, the Judgment shall not become final and conclusive.

The occurrence of the Effective Date is a material condition to the performance of Chase's obligations under this Agreement.

B. Public/Media Statements.

The Parties and their counsel agree that no Party shall make any public comment regarding this Agreement, or the negotiations leading to its conclusion, other than by one or more statements similar to the following:

"The lawsuit was settled to the satisfaction of the parties."

"The resolution reached by the parties is a good one."

"The resolution reach by the parties is fair, reasonable, adequate, and in the best interests of the Settlement Class."

In the event that either Party believes a statement has been made that violates this provision, counsel for the Parties shall meet and confer informally in an effort to resolve the dispute. If any dispute cannot be resolved informally, such dispute shall be submitted to the Court for resolution. The Court may grant an injunction to cease and desist from making the statements.

The Parties waive any right to appeal or otherwise seek review of the Court's decision. Nothing in this Agreement is meant to restrict, or may operate to restrict, Chase's ability and obligation to comply with its financial reporting or other legal requirements.

XI. MISCELLANEOUS PROVISIONS

A. Stay of Litigation.

The Parties agree, subject to the Court's consent, to stay all proceedings in the Action until further order of the Court except as may be necessary to implement the Settlement or to comply with the terms of the Agreement.

B. Extension of Time.

Unless otherwise ordered by the Court, the Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of this Agreement.

C. Integration.

This Agreement, including all exhibits, constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made or relied upon by any Party hereto, except as expressly provided for herein.

D. Governing Law/Forum Selection Clause.

This Agreement shall be construed in accordance with, and be governed by, the laws of the Commonwealth of Massachusetts, without regard to the principles thereof regarding choice of law. Any dispute relating to the interpretation or enforcement hereof will be submitted to the Court, which shall have exclusive jurisdiction thereof. The Parties hereby expressly waive all objections to the jurisdiction or venue of this Court with respect to this Agreement. Such waiver includes without limitation waiver of the ability to seek transfer of disputes concerning this

Agreement to another Court and the ability to otherwise challenge this Court's jurisdiction, venue, or ability to adjudicate such disputes.

E. Representative Capacity.

Each Person executing this Agreement in a representative capacity represents and warrants that he or she is empowered to do so.

F. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts.

G. Cooperation of the Parties.

The Parties to this Agreement agree to prepare and execute all necessary documents, to seek Court approvals, to defend Court approvals, and to do all things reasonably necessary to effectuate the Settlement.

H. Execution Voluntary.

This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand the provisions of this Agreement and have relied on the advice and representation of legal counsel of their own choosing. Each of the Parties has cooperated in the drafting and preparation of this Agreement and has been advised by counsel regarding the terms, effects, and consequences of this Agreement. Accordingly, in any construction to be made of this Agreement, neither this Agreement nor any provision thereof shall be construed as having been drafted solely by any one of the Parties.

I. Document Return/Destruction.

1. With respect to documents subject only to the Protective Order in this Action, within thirty (30) days after the Effective Date, all such documents and data provided to Class Counsel (including all experts or consultants retained by them or other persons to whom such documents have been transmitted by Class Counsel) or the Class Representatives by Chase or Defendant's Counsel, or provided by Class Counsel or the Class Representatives to Chase or Defendant's Counsel (including all experts or consultants retained by them or other persons to whom such documents have been transmitted by Defendant's Counsel), shall either be destroyed by the receiving party or returned to the producing party, unless such documents contain attorney work product, in which case the documents may be retained by counsel. Notwithstanding the foregoing, Class Counsel and Defendant's Counsel may retain copies of any document filed with the Court, including any exhibits thereto, even if such exhibits contain information designated confidential by either of the Parties, provided that such materials shall continue to be treated as confidential pursuant to this Agreement and the Protective Order entered by the Court in this Action. The Parties agree that they shall be entitled to injunctive relief, and an award of reasonable attorneys' fees and expenses, to prevent or restrain any breach of these obligations.

2. With respect to documents subject to the Protective Order entered in *JPMorgan Chase Bank, N.A. v. Brian Berson*, United States District Court for the District of Northern California, No. 3:16-mc-80220-EMC, within thirty (30) days after the Effective Date, all such documents and data provided to the Parties shall be returned to Brian Berson or, if Mr. Berson consents, destroyed, unless such documents contain attorney work product, in which case the documents may be retained by counsel. Notwithstanding the foregoing, each of the Parties may retain copies of any document filed with the Court, including any exhibits thereto, even if such

exhibits contain information designated confidential, provided that such materials shall continue to be treated as confidential pursuant to this Agreement and the Protective Order entered in *JPMorgan Chase Bank, N.A. v. Brian Berson*, United States District Court for the District of Northern California, No. 3:16-mc-80220-EMC. The Parties agree that they shall be entitled to injunctive relief, and an award of reasonable attorneys' fees and expenses, to prevent or restrain any breach of these obligations.

3. Within forty-five (45) days after the Effective Date, each of the Parties shall certify to the other and Mr. Berson in writing that it has complied with the requirements of this Section XI.I.

J. Notices.

1. All notices to Class Counsel provided for herein shall be sent by U.S. mail or by means of overnight delivery to Harley S. Tropin and Tal J. Lifshitz, Kozyak Tropin Throckmorton, LLP, 2525 Ponce de Leon, 9th Floor, Miami, Florida 33134 and Keith L. Miller, 58 Winter Street, Suite 4, Boston, Massachusetts 02108.

2. All notices to Chase provided for herein shall be sent by U.S. mail or by means of overnight delivery to Beth I.Z. Boland, Foley & Lardner LLP, 111 Huntington Avenue, Suite 2500, Boston, Massachusetts 02199.

3. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Class Notice.

K. Modification and Amendment.

This Agreement, upon filing with the Court, may be amended or modified only by a written instrument signed by the Parties' counsel and approved by the Court.

It is hereby agreed:

Dated: 6/18/18

Andrew Kresse
Managing Director & CEO of Business Banking
JPMorgan Chase Bank, N.A.
On behalf of JPMorgan Chase Bank, N.A.

Beth I.Z. Boland, BBO # 553654
Michael Thompson, BBO # 673497
FOLEY & LARDNER LLP
111 Huntington Avenue, 25th Floor
Boston, Massachusetts 02199
Tel. 617.342.4000
Fax. 617.342.4001
bboland@foley.com
mxthompson@foley.com

Rachel M. Blise (admitted *pro hac vice*)
FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306
Tel. 414.297.5862
Fax. 414.297.4900
rblise@foley.com

Counsel for JPMorgan Chase Bank, N.A.

Dated: June 18, 2018

Edmund J. Mansor

For himself and on behalf of each Settlement Class Member

Roberta M. Mansor

For herself and on behalf of each Settlement Class Member

Harley S. Tropin (admitted *pro hac vice*)
Tal J. Lifshitz (admitted *pro hac vice*)
KOZYAK TROPIN THROCKMORTON, LLP
2525 Ponce de Leon, 9th Floor
Miami, Florida 33134
Tel. 305.372.1800
Fax. 305.372.3508
hst@kttlaw.com
tjl@kttlaw.com

On behalf of Edmund J. Mansor, Roberta M. Mansor, and Kozyak Tropin Throckmorton LLP

/Keith L. Miller/
Keith L. Miller, BBO# 347280
58 Winter Street, Suite 4
Boston, Massachusetts 02108
Tel. 855.523.5803
Fax. 617.523.4563
klm4law@aol.com

On behalf of Edmund J. Mansor, Roberta M. Mansor, and himself

Dated: 6/20/18

Richard B. Roper

Receiver, Millennium Bank Receivership

EXHIBIT A

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION

UNITED STATES DISTRICT COURT, DISTRICT OF MASSACHUSETTS

If, from September 25, 2008 through March 9, 2009, you purchased or acquired Certificates of Deposit (CDs) issued by Millennium Bank, UT of S, United Trust of Switzerland, or Sterling IS (collectively, Millennium Bank), rolled over investments in Millennium Bank CDs, or your funds remained in Millennium Bank's accounts held at Chase, you could be entitled to a payment from a class action settlement.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

A proposed settlement for a total of $4,625,000.00 (the Settlement Benefits) has been reached in a class action lawsuit about whether JP Morgan Chase Bank, N.A. (Chase) aided and abetted a Ponzi scheme perpetrated by William Wise and others through companies affiliated with Wise, including Millennium Bank, United Trust of Switzerland, and Sterling IS. If approved, the settlement will resolve all claims in the class action lawsuit against Chase. The settlement entitles investors who purchased or acquired Millennium Bank CDs, rolled over investments in Millennium Bank CDs, or whose funds remained in the Millennium Bank accounts during the period September 25, 2008 through March 9, 2009 to a *pro rata* share of the Settlement Benefits, after payment of certain Court-approved fees, expenses, and awards.

Your legal rights are affected whether you act or don't act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
EXCLUDE YOURSELF	You won't receive any portion of the Settlement Benefits. This is the only option that allows you to ever be part of another lawsuit against Chase about the legal claims in this case.
OBJECT	Write to the Court about why you don't like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Give up rights to object to or to opt out of the settlement.

	Investors who receive a notice in the mail or by email will automatically receive a *pro rata* portion of the Settlement Benefits after payment of certain Court-approved fees, expenses, and awards.

These rights and options—**and the deadlines to exercise them**—are explained in this notice.

The Court in charge of this case still has to decide whether to approve the settlement. The distributions of the Settlement Benefits will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

1. Why was this notice issued?

A federal court authorized this notice because you have a right to know about the proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to approve the settlement. This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, and who can get them.

Magistrate Judge Judith G. Dein of the United States District Court for the District of Massachusetts is overseeing this class action. The case is known as *Edmund J. Mansor and Roberta M. Mansor v. JPMorgan Chase Bank. N.A.*, Case No. 1:12-cv-10544-JGD. The individuals who sued are called the Plaintiffs and the company they sued, JPMorgan Chase Bank, N.A., is called the Defendant or Chase.

2. What is this lawsuit about?

The lawsuit claims that Chase aided and abetted a Ponzi scheme run primarily by William Wise through companies affiliated with Wise, including Millennium Bank, United Trust of Switzerland, and Sterling IS. Chase denies all of the claims in the lawsuit, but has agreed to the settlement to avoid the cost and risk of a trial.

3. What is a class action?

In a class action, one or more people, called Class Representatives (in this case Edmund J. Mansor and Roberta M. Mansor), sue for all people who have similar claims. The people included in the class action are called a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or Chase. Instead, both sides agreed to a settlement. This way, they avoid the cost and burden of a trial and those affected can get benefits. The Class Representatives and their attorneys think the settlement is best for all Class Members. The Millennium Bank Receiver, Richard B. Roper of Thompson & Knight LLP, will administer this settlement.

WHO IS INCLUDED IN THE SETTLEMENT

5. How do I know if I am part of the settlement?

If you received a notice in the mail or by email, records maintained by the Millennium Bank Receiver, Richard B. Roper, show that you are a Class Member. Generally, the settlement includes persons who (1) purchased or acquired Millennium

Bank CDs, or rolled over investments in Millennium Bank CDs, or whose funds remained in the Millennium Bank accounts during the period of September 25, 2008 through March 9, 2009; and (2) have been identified from records maintained by the Receiver.

6. Are there exceptions to being included?

Yes, the following are excluded from the Class: (1) Chase and Chase affiliates, subsidiaries, agents, board members, directors, officers, and/or employees; and (2) any justice, judge, or magistrate judge of the United States who has heard or presided over this action, and anyone related to them, as defined in 28 U.S.C. § 455.

7. What if I am still not sure if I am included?

Visit https://millenniumbankreceivership.tklaw.com; write to Mansor Settlement Administrator, c/o Richard B. Roper, Thompson & Knight LLP, 1722 Routh Street, Suite 1500, Dallas, Texas 75201; or email millenniumbankreceivership@tklaw.com for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET

8. What does the settlement provide?

The settlement provides Settlement Benefits of $4,625,000.00 that will be divided among the Class Members based on their net losses as identified by the Receiver after payment of Court-approved fees, expenses, and awards.

9. What can I get from the settlement?

Class Members are entitled to receive a distribution of the Settlement Benefits on a *pro rata* basis based on their net losses as identified by the Receiver, after payment of the costs of administering the settlement and Court-approved fees, expenses, and awards.

If any Class Members ask to be excluded from the Class (*see* Questions 14-16), the Settlement Benefits will be reduced by their investment in Millennium Bank CDs. This will not affect the distribution received by other Class Members.

If any Class Members fail to deposit their distribution from the Settlement Benefits, those Class Members' portion of the Settlement Benefits will be donated to a mutually agreed-upon charity approved by the Court.

HOW TO GET BENEFITS

10. I am a Class Member, how do I receive my portion of the Settlement Benefits?

Class Members are automatically eligible to recover a *pro rata* portion of the Settlement

Benefits (*see* Questions 8 and 9). Class Members will be identified from records that have been submitted to and are kept by the Millennium Bank Receiver, including Millennium Bank Receivership Claim Notification Forms.

11. When will I receive my portion of the Settlement Benefits?

The Court will hold a hearing on Month XX, 2018 to decide whether to approve the settlement. If the Court approves the settlement, there may be appeals. It is always uncertain whether the appeals can be resolved and resolving them can take time. Distributions from the Settlement Benefits will be made if and when the Court grants approval to the settlement and any appeals are resolved.

12. What rights am I giving up to get benefits and stay in the Class?

Unless you exclude yourself, you are staying in the Class. If the settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. That means you won't be able to sue, continue to sue, or be part of any other lawsuit against Chase for the legal issues in this case. The specific rights you are giving up are called Released Claims (*see* Question 13).

13. What are the Released Claims?

"Released Claims" mean all claims that could have been asserted by you, your respective heirs, executors, administrators, representatives, successors, and assigns in the lawsuit against Chase concerning William Wise's Ponzi scheme. As part of the Released Claims, you are agreeing to fully and irrevocably release, forever discharge, and covenant not to sue Chase and, whether or not specifically named herein, each of its past, present, or future directors, officers, employees, principals, agents, shareholders, attorneys, legal representatives, accountants, auditors, predecessors, successors, parents, subsidiaries, divisions, assigns, and related or affiliated entities, from or in connection with any and all liabilities, claims, cross-claims, causes of action, rights, actions, suits, debts, liens, contracts, agreements, damages, costs, attorneys' fees, losses, expenses, obligations, or demands, of any kind whatsoever, whether known or unknown, existing or potential, or suspected or unsuspected, whether raised by claim, counterclaim, setoff, or otherwise, including any known or unknown claims, which were asserted or which could have been asserted in the action, including without limitation all claims arising out of or relating in any way to Millennium Bank, UT of S, LLC, United T of S, LLC, United Trust of Switzerland, Sterling I.S., LLC, or any entity associated with William Wise.

The Released Claims are also described in detail in Section VIII.B of the Settlement Agreement, which is available at https://millenniumbankreceivership.tklaw.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue Chase about the legal claims in this case, and you don't want benefits from this settlement, you must take steps to get out of the settlement. This is called excluding yourself or is sometimes called opting out of the settlement.

14. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by mail stating that "I want to be excluded from the Settlement Class in *Edmund J. Mansor and Roberta M. Mansor v. JPMorgan Chase Bank. N.A.*, Case No. 1:12-cv-10544-JGD." Your letter must also include your name, current business or home address, telephone number, and your signature. Mail your exclusion letter so that it is postmarked by **Month XX, 2018** to the Millennium Bank Receiver:

Mansor Settlement
Administrator
c/o Richard B. Roper
Thompson & Knight LLP
1722 Routh Street, Suite 1500
Dallas, Texas 75201

15. If I exclude myself, will I still get benefits from this settlement?

No. If you exclude yourself, you are telling the Court that you don't want to be part of the Class in this settlement. You can only get benefits if you stay in the Class.

16. If I don't exclude myself, can I sue Chase for the same thing later?

No. Unless you exclude yourself, you are giving up the right to sue Chase for the claims that this settlement resolves. You must exclude yourself from *this* Class to start or continue with your own lawsuit or be part of any other lawsuit.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

Yes. The Court appointed Harley S. Tropin and Tal J. Lifshitz of Kozyak Tropin Throckmorton, LLP and Keith L. Miller to represent you and other Class Members. Together, these lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How will the lawyers be paid?

Class Counsel have asked the Court for attorneys' fees, costs, and expenses of $1,618,750. They have also asked for a payment of $25,000 to be paid to the Class Representatives for their help on behalf of the entire Class. The Court may award less or more than these amounts. The Receiver will receive fees up to $30,000 to cover the costs of sending this notice, distributing the Settlement Benefits to Class Members, and administering the settlement. All of these amounts will be paid from the Settlement Benefits before distributions are made to Class Members.

OBJECTING TO THE SETTLEMENT

You can tell the Court if you don't agree with the settlement or any part of it.

19. How do I tell the Court if I don't like the settlement?

If you're a Class Member, you can object to the settlement. You can give reasons why you think the Court should not approve it. The Court will consider your views before making a decision. To object, you must send a letter stating that you object to the settlement in *Edmund J. Mansor and Roberta M. Mansor v. JPMorgan Chase Bank. N.A.*, Case No. 1:12-cv-10544-JGD. Be sure to include your name, current business or home address, telephone number, signature, documents sufficient to establish your membership in the Class, the reasons why you object to the settlement, and copies of any other documents upon which your objection is based. Mail your objection to all three addresses below so that it is postmarked by **Month XX, 2018**.

Clerk of the Court	Class Counsel	Defense Counsel
United States District Court District of Massachusetts John Joseph Moakley U.S. Courthouse, 1 Courthouse Way Boston, MA 02210	Harley S. Tropin Tal J. Lifshitz Kozyak Tropin Throckmorton, LLP 2525 Ponce de Leon, 9th Floor Miami, FL 33134	Beth I.Z. Boland Foley & Lardner LLP 111 Huntington Ave. Suite. 2500 Boston, MA 02110

20. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class (meaning that you do not exclude yourself). Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you cannot object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

21. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at **__:__ _.m. on ___day, Month XX, 2018**, at the United States District Court for the District of Massachusetts, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210, 5th Floor, Courtroom 15. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing (*see* Question 23). The Court may also decide how much to pay Class Counsel and the Class Representatives. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

22. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Judge may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

23. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter to the Clerk of Court at the address provided in response to Question 19 before the hearing saying that it is your "Notice of Intention to Appear in *Edmund J. Mansor and Roberta M. Mansor v. JPMorgan Chase Bank. N.A.*, Case No. 1:12-cv-10544-JGD." Be sure to include your name, current business or home address, telephone number, and signature.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing you will give up your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Chase about the legal issues in this case, ever again. If you received a notice in the mail or by email, you will receive a distribution, as described in Questions 10 and 11. If you did not receive a notice in the mail or by email, you won't get any benefits from this settlement. If you believe a mistake was made and that you should have received a notice in the mail or by email, please write to Mansor Settlement Administrator, c/o Richard B. Roper, Thompson & Knight LLP, 1722 Routh Street, Suite 1500, Dallas, Texas 75201; or email millenniumbankreceivership@tklaw.com.

GETTING MORE INFORMATION

25. Are there more details about the settlement?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting https://millenniumbankreceivership.tklaw.com.

26. How do I get more information?

If you have questions, visit https://millenniumbankreceivership.tklaw.com or write to Mansor Settlement Administrator, c/o Richard B. Roper, Thompson & Knight LLP, 1722 Routh Street, Suite 1500, Dallas, Texas 75201; or email millenniumbankreceivership@tklaw.com.

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EDMUND J. MANSOR and ROBERTA M. MANSOR, Plaintiffs, v. JPMORGAN CHASE BANK, N.A., Defendant.	)	Civil Action No. 1:12-cv-10544-JGD

ORDER APPROVING PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

The Court has reviewed Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and supporting Memorandum, the Settlement Agreement, and the record in this case.

The Court finds that the proposed Settlement, as set forth in the Parties' Settlement Agreement, appears to be fair, reasonable, adequate, and in the best interests of the Class. The Court further finds that the Settlement was entered into at arm's-length by highly experienced counsel following mediation with the Honorable Margaret R. Hinkle (Ret.). The Court therefore preliminarily approves the proposed Settlement and enters this Preliminary Order thereto.

Class Certification

The Court conditionally certifies, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3), a Settlement Class defined as:

> All persons who purchased or otherwise acquired Millennium CDs or whose funds remained in the Millennium accounts at Chase from September 25, 2008 through March 9, 2009, which includes persons whose CDs purportedly rolled over or whose funds were deposited in or remained in the Millennium accounts at Chase.

> Excluded from this class are Defendant, its affiliates, subsidiaries, agents, board members, directors, officers, and/or employees.

For purposes of the foregoing Class definition, "persons" includes all natural persons and entities.

The Court finds that the certification of the Class for settlement purposes is warranted, and that settlement of this action on a class basis is superior to other means of resolving this matter.

The Court appoints Plaintiffs Edmund J. Mansor and Robert M. Mansor as Class Representatives of the Settlement Class.

The Court appoints the law firm of Kozyak Tropin Throckmorton, LLP; attorneys Harley S. Tropin and Tal J. Lifshitz; and attorney Keith L. Miller as Class Counsel to the Settlement Class.

The certification of the Class pursuant to this Order is for Settlement purposes only and is conditioned upon the Court granting final approval of this settlement after notice to the Class, consideration of objections, if any, and consideration of all other matters the Court deems relevant. In the event the Court denies final approval of this Settlement, the certification of the Class pursuant to this Order is withdrawn, without prejudice to further motion by the parties pursuant to Fed. R. Civ. P. 23.

Notice to Potential Class Members

The Court approves the form and content of the proposed Class Notice (attached hereto as Exhibit A) and approves the Parties' proposal to distribute the Class Notice as set forth in the Settlement Agreement. The Court finds that the Parties' proposal constitutes the best notice practicable under the circumstances, and complies fully with the notice requirements of due process and Fed. R. Civ. P. 23.

The Court approves the Parties' proposed schedule for dissemination of the Class Notice, requesting exclusion from the Settlement Class or objecting to the Settlement, submitting papers in connection with Final Approval, and the Final Approval Hearing, as follows:

- 15 days after entry of Preliminary Order: deadline for Class Counsel's request for attorneys' fees and expenses and Class Representatives' enhancement award
- 30 days after entry of Preliminary Order: deadline for mailing Class Notice
- 60 days after the date of Class Notice: deadline for opt-outs and objections
- 15 days after Opt-out Deadline: deadline for Receiver to file a declaration with the Court identifying the list of opt-outs, if any
- 10 days before Fairness Hearing: deadline for affidavit regarding mailing
- 10 days before Fairness Hearing: deadline for Defendant to notify Court if it intends to withdraw from the Settlement Agreement due to opt-outs exceeding threshold set forth in Section V.C. of the Settlement Agreement
- 7 days before Fairness Hearing: deadline for the Mansors to file motion for final approval
- As soon as may be heard: Fairness Hearing

Settlement Administration

The Court approves Richard B. Roper of Thompson & Knight LLP, 1722 Routh Street, Suite 1500, Dallas, Texas 75201 (the "Receiver") as settlement administrator, with the responsibilities set forth in the Settlement Agreement.

As described in the Notice to the Class, any member may opt out of the Class by mailing a completed Request for Exclusion to the Receiver within 60 days after the date of the Notice to the Class. Persons that request exclusion from the Class shall not be entitled to the benefits of the Settlement, nor be bound by any judgment.

Any potential member of the Class that does not properly and timely mail a Request for Exclusion shall be included in the Class and shall be bound by all the terms and provisions of the Settlement Agreement, whether or not such class member shall have objected to the Settlement.

Fairness Hearing

A Fairness Hearing is hereby scheduled to be held on _____, 2018, before the undersigned at John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210, 5th Floor, Courtroom 15 to consider the fairness, reasonableness, and adequacy of the Settlement Agreement.

Any member of the Class that has not filed a timely Request for Exclusion in the manner set forth above may appear at the Fairness Hearing in person or by counsel and may be heard, to the extent allowed by the Court, either in support of or in opposition to the fairness, reasonableness and adequacy of the Settlement Agreement; provided, however, that no person shall be heard in opposition to the Settlement Agreement, and no papers or briefs submitted by or on behalf of any such person shall be accepted or considered by the Court, unless, in accordance with the deadlines above, such person: (a) filed with the Clerk of the Court a notice of such person's intention to appear as well as a statement that indicates the basis for such person's opposition to the Settlement Agreement, and any documentation in support of such opposition; and (b) serves copies of such notice, statement and documentation upon Class Counsel and Defendant's Counsel.

The date and time of the Fairness Hearing shall be set forth in the Notice but shall be subject to adjournment by the Court without further notice to the members of the Class other than which may be posted at the Court, on the Court's website and on Class Counsel's website.

IT IS SO ORDERED.

_____
Hon. Judith G. Dein
United States Magistrate Judge

Dated: _____, 2018