

KAPLAN, J
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JUDGE KAPLAN'S CHAMBERS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re LEHMAN BROTHERS SECURITIES
AND ERISA LITIGATION

Case No. 09-MD-2017 (LAK)

This Document Applies To:

ECF CASE

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

USDC SDNY
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**JUDGMENT AND ORDER APPROVING SETTLEMENT
BETWEEN LEAD PLAINTIFFS AND THE SETTLING OFFICERS AND DIRECTORS**

This matter came for hearing on April 12, 2012 (the "Settlement Hearing"), on the application of the Settling Parties to determine (i) whether the terms and conditions of the Stipulation of Settlement and Release between Lead Plaintiffs, on behalf of the Settlement Class, and Richard S. Fuld, Jr., Christopher M. O'Meara, Joseph M. Gregory, Erin Callan, Ian Lowitt, Michael L. Ainslie, John F. Akers, Roger S. Berlind, Thomas H. Cruikshank, Marsha Johnson Evans, Sir Christopher Gent, Roland A. Hernandez, Henry Kaufman and John D. Macomber (the "Settling Defendants") (the "Stipulation") are fair, reasonable, and adequate for the settlement of all claims asserted by Lead Plaintiffs against the Settling Defendants in the Third Amended Class Action Complaint for Violations of the Federal Securities Laws (the "Complaint") now pending in this Court in the above-captioned consolidated class action (the "Action"), and should be approved; and (ii) whether judgment should be entered (a) dismissing the Complaint on the merits, with prejudice and without costs, in favor only of the Settling Defendants and the other Released Parties and as against all persons or entities who are members of the Settlement Class herein who have not requested exclusion therefrom, (b) releasing the Settled Claims as against

the Settling Defendants and all other Released Parties, and (c) entering a Bar Order and judgment reduction provision, as set forth in paragraphs 12 and 13 herein, in connection with this Action. The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that a notice of the Settlement Hearing substantially in the form approved by the Court was mailed to all persons and entities reasonably identifiable as members of the Settlement Class, and that a summary notice of the Settlement Hearing substantially in the form approved by the Court was published in the national edition of *The Wall Street Journal* and *Investor's Business Daily* pursuant to the specifications of the Court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Judgment hereby incorporates by reference the definitions in the Stipulation, and all capitalized terms used herein shall have the same meaning as set forth in the Stipulation including, but not limited to:

(a) "Released Parties" shall mean any and all of the Settling Defendants, Lehman¹ and all past, present and future employees, officers and directors of Lehman, their respective present or former spouses, immediate family members, heirs, attorneys, representatives, executors, estates, administrators, successors and assigns, and insurers including without limitation the Insurers, provided however, that "Released Parties" does not include any of the Non-Settling Defendants, nor any of their respective parents, successors, subsidiaries, and affiliates and any entity in which any of them have or had during the Settlement Class Period a controlling interest and the officers and directors thereof.

¹ Inclusion of Lehman and all past, present and future employees, officers and directors of Lehman (who are not one of the Settling Defendants) in the definition of "Released Parties" is conditioned upon Lehman, prior to the Effective Date, producing (and certifying to Lead Counsel that it has produced) all non-privileged and responsive transcripts and documents containing the search terms and for the custodians Lead Plaintiffs and Lehman previously identified and agreed to, and subject to Lead Plaintiffs' good faith follow-up requests, with such production to begin promptly after the signing of the Stipulation, subject to pre-existing confidentiality agreements governing the production of such transcripts and documents, and to continue on a rolling basis if necessary, without undue delay, until completion.

(b) “Released Parties’ Claims” shall mean any and all claims and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Settling Defendants, except for claims relating to the enforcement of the Settlement.

(c) “Settled Claims” shall mean any and all claims, rights, remedies, demands, liabilities, or causes of action of every nature and description whatsoever (including, but not limited to, any claims for damages, punitive damages, compensation, restitution, disgorgement, rescission, interest, attorneys’ fees/costs, expert or consulting fees, and any other costs, expenses or liabilities of any kind or nature whatsoever), whether legal, statutory or equitable in nature to the fullest extent that the law permits their release in this Action, by or on behalf of Lead Plaintiffs or any other Settlement Class Members against any of the Released Parties that have been alleged or could have been alleged in the Complaint or in any preceding complaints by any of the Settlement Class Members (or in any forum or proceeding or otherwise), whether based on federal, state, local, statutory, or common law, rule, or regulation, whether known or Unknown Claims, whether class, representative, or individual in nature, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, whether at law or in equity, matured or unmatured, that (1) are based upon or arise from any of the allegations, transactions, facts, matters, events, disclosures, statements, occurrences, circumstances, representations, conduct, acts, or omissions or failures to act that have been alleged or asserted in the Complaint or in any preceding complaints (or in any forum or proceeding or otherwise), and (2) are based upon the purchase or acquisition of (a) Lehman securities identified in Appendix A, (b) Lehman Structured Notes identified in Appendix B, and/or (c) Lehman common stock or call options and/or sale of put options during the Settlement Class Period. Notwithstanding the foregoing, “Settled Claims” does not include (i) any claims against the Non-Settling Defendants; (ii) the claims asserted in any ERISA action or mortgage-backed securities action, including such claims submitted against any of the debtors in the Bankruptcy Case; (iii) any claims or interests in the Bankruptcy Case asserted by a Settlement Class Member based solely upon the ownership of any Lehman security which is entitled to a distribution under any confirmed plan of reorganization in the Bankruptcy Case because of such ownership; or (iv) claims relating to the enforcement of the Settlement.

2. This Court has jurisdiction to enter this Judgment. The Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.

3. The Court hereby affirms its findings in its Order Concerning Proposed Settlement with the Director and Officer Defendants dated December 15, 2011 (the "Preliminary Order"), that for purposes of the Settlement only, the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the Settlement Class Representatives are typical of the claims of the Settlement Class they seek to represent; (d) the Settlement Class Representatives and Lead Counsel have and will fairly and adequately represent the interests of the Settlement Class; (e) the questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

4. The Court further affirms its determinations in the Preliminary Order and finally certifies, for purposes of the Settlement only, pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure, the Action to proceed as a class action on behalf of all persons or entities who:

- (1) Purchased or acquired Lehman securities identified in Appendix A to the Stipulation pursuant or traceable to the Shelf Registration Statement and who were damaged thereby,
- (2) Purchased or acquired any Lehman Structured Notes identified in Appendix B to the Stipulation pursuant or traceable to the Shelf Registration Statement and who were damaged thereby, or

- (3) Purchased or acquired Lehman common stock, call options, and/or sold put options between June 12, 2007 and September 15, 2008, through and inclusive, and who were damaged thereby.

Excluded from the Settlement Class are (i) Defendants, (ii) Lehman, (iii) the executive officers and directors of each Defendant or Lehman, (iv) any entity in which Defendants or Lehman have or had a controlling interest, (v) members of Defendants' immediate families, and (vi) the legal representatives, heirs, successors or assigns of any such excluded party. Also excluded from the Settlement Class are the persons and/or entities who timely and validly requested exclusion from the Settlement Class as listed on Exhibit 1 annexed hereto.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for purposes of the Settlement only, this Court affirms its findings in the Preliminary Order that the Settlement Class Representatives are adequate class representatives and finally certifies them as Settlement Class Representatives, and finally certifies the law firms of Bernstein Litowitz Berger & Grossmann LLP and Kessler Topaz Meltzer & Check, LLP as Class Counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

6. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the pendency of the Action as a class action and of the terms and conditions of the proposed Settlement met the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, Section 27 of the Securities Act of 1933, 15 U.S.C. § 77z-1(a)(7), as amended by the Private Securities Litigation Reform Act of 1995, and Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995, and constituted the best notice

practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

7. Pursuant to and in compliance with Rule 23 of the Federal Rules of Civil Procedure, the Court hereby finds that due and adequate notice of these proceedings was directed to all persons and entities who are Settlement Class Members, advising them of the Settlement, of Lead Counsel's intent to apply for attorneys' fees and reimbursement of Litigation Expenses associated with the Action, and of their right to object thereto, and a full and fair opportunity was accorded to all persons and entities who are Settlement Class Members to be heard with respect to the foregoing matters. Thus, it is hereby determined that all Settlement Class Members who did not timely and validly elect to exclude themselves by written communication postmarked or otherwise delivered on or before the date set forth in the Notice and the Preliminary Approval Order, are bound by this Judgment.

8. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement as set forth in the Stipulation, and finds that the Settlement is, in all respects, fair, reasonable, and adequate, and in the best interests of the Settlement Class Members, including Lead Plaintiffs. This Court further finds that the Settlement set forth in the Stipulation is the result of arm's-length negotiations between experienced counsel representing the interests of the Settling Parties. Accordingly, the Settlement embodied in the Stipulation is hereby approved in all respects and shall be consummated in accordance with the terms and provisions of the Stipulation.

9. The Complaint is hereby dismissed with prejudice as against only the Settling Defendants and without costs against any of the parties, except for the payments expressly provided for in the Stipulation.

10. Upon the Effective Date, each of the Named Plaintiffs and all other Settlement Class Members release and shall be deemed by operation of law to have irrevocably, absolutely and unconditionally, fully, finally and forever released, waived, discharged and dismissed each and every Settled Claim against each and all of the Released Parties with prejudice, and shall forever be enjoined from prosecuting any or all Settled Claims against any Released Party.

11. Upon the Effective Date, each of the Settling Defendants, on behalf of themselves and their respective heirs, joint tenants, tenants in common, beneficiaries, executors, administrators, predecessors, successors, affiliates, assigns and agents, release and shall be deemed by operation of law to have released, waived, discharged and dismissed each and every Released Parties' Claims against each and all of the Named Plaintiffs, and their respective counsel, and any other Settlement Class Member, and shall forever be enjoined from prosecuting any or all of the Released Parties' Claims against Named Plaintiffs, their respective counsel, or any other Settlement Class Member.

12. Upon the Effective Date, any and all claims for contribution and indemnification (or any other claim where the injury is the person's or entity's liability to the Settlement Class), arising out of or reasonably flowing from the Settled Claims (a) by any person or entity against any or all of the Settling Defendants, their insurers, subrogees or assigns, or anyone acting on behalf of the Settling Defendants, their insurers, subrogees or assigns or (b) by any or all of the Settling Defendants, their insurers, subrogees or assigns, or anyone acting on behalf of the Settling Defendants, their insurers, subrogees or assigns against any person or entity, other than a person whose liability has been extinguished pursuant to the Settlement, are, to the fullest extent provided by law, permanently barred and fully discharged.

13. Any final verdict or judgment that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against any person or entity subject to the Bar Order in paragraph 12 above shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of the Settling Defendant for common damages; or (b) the amount paid by or on behalf of the Settling Defendant to the Settlement Class or Settlement Class Member for common damages.

14. This Judgment, the Stipulation, and any of their terms and provisions, and any of the negotiations or proceedings connected with it, and any of the documents or statements referred to therein:

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

b. shall not be offered or received against any of the Released Parties as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any of the Released Parties, or against any of the Named Plaintiffs or any other Settlement Class Members as evidence of any infirmity in the claims of the Named Plaintiffs or the other Settlement Class Members;

c. shall not be offered or received against any of the Released Parties or against any of the Named Plaintiffs or any other Settlement Class Members as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or

wrongdoing, or in any way referred to for any other reason as against any of the Released Parties, or against any of the Named Plaintiffs or any other Settlement Class Members, in any other civil, criminal or administrative action, arbitration or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; provided, however, that if the Stipulation is approved by the District Court, the Settling Defendants, Named Plaintiffs and any other Settlement Class Member may refer to it to effectuate the protection from liability granted them thereunder and/or by the Judgment, or otherwise to enforce the terms of the Settlement;

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

e. shall not be construed as or received in evidence as an admission, concession or presumption against any Named Plaintiff or any other Settlement Class Member that any of their claims are without merit or that damages recoverable under the Complaint would not have exceeded the Settlement Amount.

15. The Court reserves jurisdiction over, without affecting in any way the finality of this Judgment, (a) implementation and enforcement of the Settlement; (b) approving a plan of allocation; (c) the allowance, disallowance or adjustment of any Settlement Class Member's claim on equitable grounds and any award or distribution of the Settlement Fund; (d) disposition of the Settlement Fund; (e) hearing and determining Lead Counsel's application for attorneys' fees, costs, interest and expenses, including fees and costs of experts and/or consultants; (f) enforcing and administering this Judgment; (g) enforcing and administering the Stipulation including any releases executed in connection therewith; and (h) other matters related or ancillary to the foregoing.

16. Separate Orders shall be entered regarding Lead Plaintiffs' motion for approval of the proposed Plan of Allocation and Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses. Such Orders shall not disturb or affect any of the terms of this Judgment.

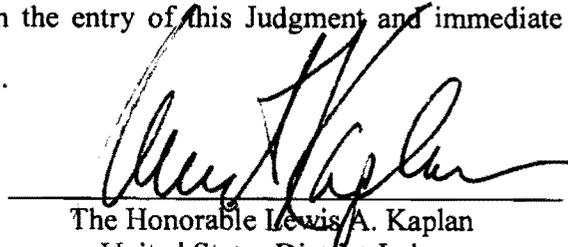
17. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation or in the event that the Settlement Fund, or any portion thereof, is returned to Settling Defendants (or such persons or entities responsible for funding the Settlement Amount), and such amount is not replaced by others, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation, and shall be vacated to the extent provided by the Stipulation and, in such event: (a) all Orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation; (b) the fact of the Settlement shall not be admissible in any trial of this Action and the Settling Parties shall be deemed to have reverted *nunc pro tunc* to their respective status in this Action immediately prior to August 24, 2011; and (c) the Settlement Amount plus accrued interest, less any Taxes paid or due with respect to such income, and less Notice and Administration Costs actually incurred and paid or payable, shall be returned in full as provided in paragraph 32 of the Stipulation.

18. Without further Order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

19. There is no just reason for delay in the entry of this Judgment and immediate entry by the Clerk of the Court is expressly directed.

Dated:

November 8, 2012


The Honorable Lewis A. Kaplan
United States District Judge

#104724

Exhibit 1

Persons and Entities Excluded from the Settlement Class

1. Alternative Benefit Management
c/o Greer, Herz & Adams, L.L.P.
League City, TX
2. American National Life Insurance
Company of Texas ("ANTEX")
c/o Greer, Herz & Adams, L.L.P.
League City, TX
3. Timothy J. Anderson
Atlantic Beach, FL
4. Gregory L. Armstrong
Leeds, AL
5. Ilan Yaacov Ashkenazi
Jerusalem, Israel
6. Anoosh Askari
Santa Monica, CA
7. Nasrin S. Askari (IRA)
Santa Monica, CA
8. Peter G. Babcock
Marietta, GA
9. Michael J. Bartek
West Mifflin, PA
10. Henry V. Becker Sr. Trust U/A Dtd
7/9/2005
c/o Henry Valentine Becker Sr., Trustee
Washoe Valley, NV
11. California Public Employees'
Retirement System
c/o Robbins Geller Rudman & Dowd
LLP
San Diego, CA
12. Catherine Abendano Castelo
Atlanta, GA
13. Carol Ciarco
c/o Dan A. Druz
Lyndhurst, NJ
14. City of Auburn
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
15. City of Burbank
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
16. The City of Cerritos
c/o Pearson, Simon, Warshaw & Penny,
LLP
San Francisco, CA
17. City of San Buenaventura
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
18. The City of South San Francisco
c/o Pearson, Simon, Warshaw & Penny
LLP
San Francisco, CA
19. Comprehensive Investment Services,
Inc.
c/o Greer, Herz & Adams, L.L.P.
League City, TX
20. Continental Casualty Company
c/o CNA
Chicago, IL
21. Contra Costa Water District
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
22. James P. Coughlin
Austin, TX

23. C.V. Starr & Co. Inc. Trust
New York, NY
24. Ernie Hoechner (Trust & IRA)
c/o Dan A. Druz
S. Burlington, VT
25. Priscilla Hoechner (IRA)
c/o Dan A. Druz
S. Burlington, VT
26. Vincent M. Jackson
Brockton, MA
27. Randy Karp (IRA)
Prescott, AZ
28. Donald P. Lenio (IRA)
Ocala, FL
29. Mildred Mautner Trust UA 8 20 93
Harry Mautner Trust UA 8 20 93
Mildred Mautner & Harry Mautner Tr
Hollywood, FL
30. Ronald D. Mizrahi ACF
Isaac R. Mizrahi U/NY/UTMA
Brooklyn, NY
31. Ronald D. Mizrahi ACF
Jack R. Mizrahi U/NY/UTMA
Brooklyn, NY
32. Ronald D. Mizrahi
Brooklyn, NY
33. Ronald D. Mizrahi and Sarah Mizrahi
JTWROS
Brooklyn, NY
34. Ronald D. Mizrahi ACF
Raquel Sophie Mizrahi U/NY/UTMA
Brooklyn, NY
35. Ronald D. Mizrahi ACF
Julia Ruth Mizrahi U/NY/UTMA
Brooklyn, NY
36. Ronald D. Mizrahi ACF
Sylvia Joy Mizrahi U/NY/UTMA
Brooklyn, NY
37. The Moody Foundation
c/o Greer, Herz & Adams, L.L.P.
Galveston, TX
38. Monterey County Investment Pool
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
39. Gary W. Moye
Marietta, GA
40. James E. O'Brien,
James E. O'Brien SEP IRA,
James E. O'Brien M.D. Separate
Property Trust
Manhattan Beach, CA
41. Norma Rose
Murrieta, CA
42. Michael J. Ryan
Bradenton, FL
43. Lanny Sagal (IRA)
New York, NY
44. San Mateo County Investment Pool
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
45. Lorraine Senkowsky (IRA)
c/o Dan A. Druz
Lakewood, NJ
46. Starr International USA Investments
LC
c/o Starr Insurance Holdings Inc.
New York, NY
47. State Compensation Insurance Fund
c/o Carol R. Newman
San Francisco, CA
48. State of New Jersey, Department of
Treasury, Division of Investment
c/o Berger & Montague, P.C.
Philadelphia, PA
49. David Tapia
Chino Valley, AZ

50. Thomas A. Thompson
Franklin, TN
51. Vallejo Sanitation and Flood Control
District
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
52. Donald Vives & Katherine C. Vives
Auburn, AL
53. David Volpe (IRA)
c/o Dan A. Druz
St. Petersburg, FL
54. John & Kim Volpe
c/o Dan A. Druz
Sea Girt, NJ
55. Alan Winters
Renee Winters, JTWROS
Port Washington, NY
56. Zenith Insurance Company
c/o Cotchett, Pitre & McCarthy, LLP
Burlingame, CA
57. Stephen J. & Jacqueline W. Edelmann
c/o McCausland Keen & Buckman
Radnor, PA
58. Joseph A. Toto
Hamilton, NJ
59. Daniel T. Toto / Toto Grandchildren
Trust
Hamilton, NJ
60. Ann Marie Toto
Hamilton, NJ