

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| PENNSYLVANIA PUBLIC SCHOOL | : | CIVIL ACTION NO. |
| EMPLOYEES' RETIREMENT SYSTEM, | : | |
| individually and on behalf of all others | : | 11-CV-00733-WHP |
| similarly situated, | : | |
| | : | CLASS ACTION |
| Plaintiff, | : | |
| | : | |
| v. | : | |
| | : | |
| BANK OF AMERICA CORPORATION, et al., | : | |
| | : | |
| Defendants. | : | |
| | : | |

JUDGMENT AND ORDER

WHEREAS:

A. Lead Plaintiff, on behalf of itself and the Class, and Defendants entered into a Stipulation and Agreement of Settlement, dated March 11, 2016, as amended on June 13, 2016 in the above-captioned Action (the "Stipulation").

B. Pursuant to the Order Preliminarily Approving Proposed Settlement and Providing for Notice (the "Preliminary Approval Order"), entered June 15, 2016, the Court scheduled a hearing for November 29, 2016 at 2:00 p.m. to, among other things, determine: (i) whether the proposed Settlement on the terms and conditions set forth in the Stipulation is fair, reasonable, and adequate, and should be approved by the Court; and (ii) whether a Judgment as provided for in the Stipulation should be entered.

C. The Court ordered that the Notice of Class Action, Proposed Settlement, Motion for Attorneys' Fees and Expenses, and Settlement Hearing (the "Notice") and a Proof of Claim and Release form (the "Proof of Claim"), substantially in the forms attached to the

Preliminary Approval Order as Exhibits 2 and 4, respectively, be sent by first-class mail, postage prepaid, on or before thirty (30) calendar days after the date of entry of the Preliminary Approval Order (the “Notice Date”) to all potential Class Members whose addresses could be identified with reasonable effort, and that the Notice be published in the *Wall Street Journal* and transmitted over *PR Newswire* within seven (7) calendar days of the Notice Date.

D. The Notice advised Class Members of the date, time, place, and purpose of the Settlement Hearing. The Notice further advised that any objections to the Settlement were required to be filed with the Court no later than November 14, 2016, and mailed to counsel for the Settling Parties such that they were received no later than November 14, 2016. The Notice further advised Class Members of the requirements for requests to be excluded from the Class.

E. Lead Plaintiff has proposed and Defendants do not object to this Court accepting exclusion requests from individual investors who: (a) requested to be excluded from the Class but did not provide all the information required pursuant to paragraph 9 of the Preliminary Approval Order; and/or (b) submitted late exclusion requests, provided that those exclusion requests were received by the Claims Administrator by no later than November 17, 2016.

F. Lead Plaintiff and Lead Counsel complied with the provisions of the Preliminary Approval Order as to the publication and distribution of the Notice and Proof of Claim, as well as the Long Form Notice of Class Action, Proposed Settlement, Motion for Attorneys’ Fees and Expenses, and Settlement Hearing (the “Long Form Notice”), attached to the Preliminary Approval Order as Exhibit 3.

G. On August 30, 2016, Lead Plaintiff moved for final approval of the Settlement, as set forth in the Preliminary Approval Order. The Settlement Hearing was duly

held before this Court on November 29, 2016, at which time all interested Persons were afforded the opportunity to be heard.

H. This Court has duly considered Lead Plaintiff's motion, the affidavits, declarations and memoranda of law submitted in support thereof, the Stipulation, and all of the submissions and arguments presented with respect to the proposed Settlement.

NOW, THEREFORE, after due deliberation, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. **Incorporation of Settlement Documents.** This Judgment incorporates and makes a part hereof: (i) the Stipulation filed with the Court on March 12, 2016, as amended on June 13, 2016; and (ii) the Notice and Long Form Notice filed with the Court on June 13, 2016.

2. As used in this Judgment, the following terms shall have the meanings set forth below. Capitalized terms used but not otherwise defined in this Judgment shall have the meaning set forth in the Preliminary Approval Order and in the Stipulation.

(a) "Class" or "Class Member" means the class certified in this case, namely "all persons or entities who purchased or otherwise acquired either Bank of America Corporation's common stock or Common Equivalent Securities during the Class Period of February 27, 2009, through October 19, 2010, and who allegedly suffered damages as a result". Excluded from the Class are: (i) BoA and Executive Defendants; (ii) members of the immediate family of each of the Executive Defendants; (iii) any person who was an executive officer and/or director of BoA during the Class Period; (iv) any entity that served as an underwriter for BoA's offering of Common Equivalent Securities; (v) any person, firm, trust, corporation, officer, director, or any other individual or entity in which any Defendant has a controlling interest or that is affiliated with any of the Defendants; (vi) the legal representatives, agents, affiliates, heirs,

successors-in-interest or assigns of any such excluded party; and (vii) any Person that would otherwise be a Class Member, but properly excludes himself, herself, or itself by submitting a valid and timely request for exclusion from the Class in accordance with the requirements set forth herein and in the Notice. For the sake of clarity, the exclusions from the Class do not include Investment Vehicles.

(b) “Defendants” means Bank of America Corporation, Kenneth D. Lewis, Brian T. Moynihan, Charles H. Noski, Joe L. Price, Neil Cotty, William P. Boardman, Frank Paul Bramble, Sr., Virgis William Colbert, Charles K. Gifford, Jr., Charles Otis Holliday, Jr., Monica C. Lozano, Thomas John May, Thomas Michael Ryan, Robert W. Scully, Cantor Fitzgerald & Co., CCB International Capital Ltd., Cowen and Company, L.L.C., Daiwa Capital Markets America Inc. (formerly Daiwa Securities America Inc.), Deutsche Bank Securities Inc., Gleacher & Company Securities, Inc. (formerly Broadpoint Capital, Inc.), Goldman, Sachs & Co., ICBC International Securities Ltd., Keefe, Bruyette & Woods, Inc., KeyBanc Capital Markets Inc., Macquarie Capital (USA) Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Mizuho Securities USA Inc., Morgan Stanley & Co. LLC (formerly Morgan Stanley & Co., Incorporated), National Australia Bank Limited, RBS Securities Inc., SG Americas Securities, LLC, Samsung Securities Co., Ltd., Samuel A. Ramirez & Co., Inc., Sanford C. Bernstein & Co., LLC, Santander Investment Securities Inc., Southwest Securities Inc., Stifel, Nicolaus & Company, Incorporated, SunTrust Robinson Humphrey, Inc., UBS Securities LLC, UniCredit Capital Markets, Inc., Wells Fargo Securities, LLC and PricewaterhouseCoopers LLP.

(c) “Investment Vehicles” means any investment company or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds,

fund of funds and hedge funds, in which a Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but of which a Defendant or its respective affiliates is not a majority owner or does not hold a majority beneficial interest, and (ii) any Employee Benefit Plan as to which a Defendant or its affiliates acts as an investment advisor or otherwise may be a fiduciary.

(d) “Released Claims” means Released Plaintiff Claims and Released Defendant Claims.

(e) “Released Defendants” means any of the following: (a) Defendants; (b) their respective present and former parents, affiliates, subsidiaries, divisions, general partners, limited partners, limited liability partners, and any Person in which any Defendant has or had a controlling interest; and (c) the present and former Immediate Family, heirs, principals, owners, trustees, trusts, executors, administrators, predecessors, successors, assigns, members, agents, subsidiaries, employees, associates, Officers, managers, Directors, general partners, limited partners, bankers, underwriters, attorneys, accountants, auditors, representatives, estates, divisions, advisors, estates, divisions, advisors, estate managers, indemnifiers, insurers, and reinsurers of each of the Persons listed in subpart (a) or (b) of this definition. “Released Defendants” shall also include any entity or partnership (whether or not incorporated) which carries on business under a name which includes all or part of the PricewaterhouseCoopers name or is otherwise (directly or indirectly) within the worldwide network of PricewaterhouseCoopers firms, including PricewaterhouseCoopers International Limited and any member firm, network firm, specified subsidiary or connected firm of PricewaterhouseCoopers International Limited.

(f) “Released Defendant Claims” means any and all claims, rights, actions, issues, controversies, causes of action, duties, obligations, demands, actions, debts, sums of

money, suits, contracts, agreements, promises, damages, and liabilities of every kind, nature, and description (including but not limited to any claims for damages, interest, attorneys' fees or expert or consulting fees, and any and all other costs, expenses or liabilities whatsoever), including both known claims and Unknown Claims, whether arising under federal, state, or foreign law, or statutory, common, or administrative law, or any other law, rule, or regulation, whether asserted as claims, cross-claims, counterclaims, or third-party claims, whether fixed or contingent, choate or inchoate, accrued or not accrued, matured or unmatured, liquidated or unliquidated, perfected or unperfected, whether class or individual in nature, that previously existed, currently exist, or that exist as of the date of the Court approval of the Settlement or that may arise in the future, that any of the Released Defendants could have asserted in the Action or any other action or in any forum (including, without limitation, any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere), against any of the Released Plaintiffs that arise out of or relate to the institution, maintenance, prosecution, or settlement of the Action (other than claims to enforce the Settlement or the Judgment). Released Defendants Claims also include but are not limited to any claim under Rule 11 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1927, or any rule, regulation, statute, contract, judicial opinion, common law or other legal or equitable principle that could be asserted at any time against Lead Plaintiff or its counsel, including counsel's employees and agents, concerning in any way whatsoever the institution, maintenance, prosecution, or settlement of this Action, including any factual allegations or legal assertions made herein. Released Defendant Claims do not include claims: (i) to enforce the Settlement; or (ii) subject to Paragraph 11 herein, for indemnification, advancement or contribution among or between Released Defendants.

(g) “Released Parties” means Released Defendants and Released Plaintiffs.

(h) “Released Plaintiffs” or “Releasing Plaintiffs” means each and all of the following: (a) Lead Plaintiff, Lead Counsel, including counsel’s employees and agents, and each and every Class Member (regardless of whether that Person actually submits a Proof of Claim, seeks or obtains a distribution from the Net Settlement Fund, is entitled to receive a distribution under the Plan of Allocation approved by the Court, or has objected to the Settlement, the Plan of Allocation, or the Fee and Expense Application); (b) to the extent of the foregoing Persons’ authority, their respective present and former parents, affiliates, subsidiaries, divisions, general partners, limited partners, employees, agents, and any Person in which any of the foregoing Persons listed in subpart (a) has or had a controlling interest; (c) to the extent of the foregoing Persons’ authority, the present and former Immediate Family, heirs, principals, trustees, trusts, executors, administrators, predecessors, successors, assigns, members, agents, subsidiaries, employees, Officers, managers, Directors, general partners, limited partners, bankers, attorneys, accountants, auditors, representatives, estates, divisions, advisors, estate managers, insurers, and reinsurers of each of the Persons listed in subpart (a) or (b) of this definition; and (d) any other Person who has the right, ability, standing, or capacity to assert, prosecute, or maintain on behalf of any Class Member any of the Released Plaintiff Claims (or to obtain the proceeds of any recovery therefrom), whether in whole or in part.

(i) “Released Plaintiff Claims” means any and all claims, rights, actions, issues, controversies, causes of action, duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages, and liabilities of every kind, nature, and description (including but not limited to any claims for damages, interest, attorneys’ fees or expert or consulting fees, and any and all other costs, expenses or liabilities whatsoever),

including both known claims and Unknown Claims, whether arising under federal, state, or foreign law, or statutory, common, or administrative law, or any other law, rule, or regulation, whether asserted as claims, cross-claims, counterclaims, or third-party claims, whether fixed or contingent, choate or inchoate, accrued or not accrued, matured or unmatured, liquidated or unliquidated, perfected or unperfected, whether class or individual in nature, that previously existed, currently exist, or that exist as of the date of the Court approval of the Settlement or that may arise in the future, that any Releasing Plaintiffs asserted or could have asserted against Released Defendants in the Action or any other action or in any forum (including, without limitation, any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere) that (i) in any way arise out of, are based upon, relate to, or concern the claims, allegations, transactions, facts, events, acts, disclosures, statements, representations, or omissions or failures to act alleged, set forth, referred to, or involved in the Action, (ii) could have been raised in the Action or any of the complaints filed or proposed to be filed therein, or (iii) in any way arise out of, are based upon, relate to, or concern the holding, ownership, purchase, acquisition, disposition, or sale of, or other transaction in BoA common stock or BoA Common Equivalent Securities during the Class Period, or the holding, ownership, purchase, acquisition, disposition, or sale of, or other transaction in BoA common stock or BoA Common Equivalent Securities in or traceable to an offering during the Class Period, including, without limitation, claims that arise out of or relate to any disclosures, SEC filings, press releases, investor calls, registration statements, offering memoranda, web postings, presentations or any other statements or omissions by BoA or any Defendants during the Class Period. Released Plaintiff Claims also include but not are limited to any claim under Rule 11 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1927, or any rule, regulation,

statute, contract, judicial opinion, common law or other legal or equitable principle that could be asserted at any time against Defendants or their counsel, including counsel's employees and agents, concerning in any way whatsoever the defense or settlement of this Action, including any factual allegations or legal assertions made herein. Released Plaintiff Claims do not include claims to enforce the Settlement.

(j) "Releasing Defendants" means any of the following: (a) Defendants; (b) to the extent of Defendants' authority, their respective present and former parents, affiliates, subsidiaries, divisions, general partners, limited partners, limited liability partners, and any Person in which any Defendant has or had a controlling interest; and (c) to the extent of Defendants' authority, the predecessors, successors, estates, heirs, executors, trusts, trustees, administrators, agents, representatives and assigns of each of them, in their capacity as such.

(k) "Releasing Parties" means Releasing Defendants and Releasing Plaintiffs.

3. **Jurisdiction.** This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Class Members.

4. **Notice.** The Court finds that the mailing, website posting and publication, as applicable, of the Notice, Long Form Notice, and Proof of Claim to Class Members: (i) constituted the best notice practicable under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise Class Members of the proposed Settlement, the effect of the proposed Settlement (including the releases therein), their right to exclude themselves from the Class or object to any aspect of the proposed Settlement (and appear at the Settlement Hearing), the Fee and Expense Application, and the proposed Plan of Allocation; (iii) constituted due and sufficient notice of the proposed Settlement to all Persons and entities entitled to receive such; and (iv) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, 15 U.S.C.

§ 78u-4(a)(7), the United States Constitution (including the Due Process Clause), and all other applicable laws and rules.

5. **Objections.** Per the Opinion and Order issued December 27, 2016 (ECF No. 374), at page 3 and note 1, there are no pending objections to the Settlement, Plan of Allocation or request for award of counsel fees and expenses, including expenses of the Lead Plaintiff.

6. **Exclusion Requests.** The Court hereby approves and accepts the requests to be excluded from the Class set forth on the list attached as Exhibit A to the Affidavit of Edward J. Radetich, Jr., which list is also attached to this Judgment and Order. No further exclusion requests shall be accepted, barring further Order from this Court.

7. **Final Settlement Approval and Dismissal of Claims.** In light of the benefits to the Class, the complexity, expense, and possible duration of further litigation against Defendants, the risks of establishing liability and damages and the costs of continued litigation, the Court hereby fully and finally approves the Settlement as set forth in the Stipulation in all respects, and finds that the Settlement is in all respects fair, reasonable, and adequate, and in the best interests of Lead Plaintiff and the Class Members. This Court further finds the Settlement set forth in the Stipulation is the result of arm's-length negotiations between experienced counsel representing the interests of Lead Plaintiff, the Class, and Defendants. The Settlement shall be consummated in accordance with the terms and provisions of the Stipulation.

8. The Consolidated Class Action Complaint, dated September 23, 2011 (the "Complaint") and the Amended Consolidated Class Action Complaint dated August 13, 2012 (the "Amended Complaint"), are hereby dismissed in their entirety as to Defendants, with prejudice and without costs.

9. **Releases.** Upon the Effective Date, the Releasing Plaintiffs (i) have and shall be deemed to have fully, finally, and forever waived, released, relinquished, discharged, and dismissed each and every one of the Released Plaintiff Claims against each and every one of the Released Defendants; (ii) have and be deemed to have covenanted not to sue, directly, indirectly, or derivatively, any Released Defendant with respect to any and all of the Released Plaintiff Claims; and (iii) shall forever be barred and enjoined from directly, indirectly, or derivatively filing, commencing, instituting, prosecuting, maintaining, intervening in, participating in (as a Class Member or otherwise) (except as a witness compelled by subpoena or court order and no remuneration is received for such action(s)), or receiving any benefits or other relief, from any action, suit, cause of action, arbitration, claim, demand, or other proceeding in any jurisdiction, whether in the United States or elsewhere, on their own behalf or in a representative capacity, that is based upon, arises out of, or relates to any of the Released Plaintiff Claims against any of the Released Defendants or any other Person who may seek to claim any form of contribution or indemnity from any Released Party. All Releasing Plaintiffs shall be bound by the terms of the releases set forth in this Judgment whether or not they submit a valid and timely Proof of Claim, take any other action to obtain recovery from the Settlement Fund, or seek, or actually receive a distribution from the Net Settlement Fund.

10. Upon the Effective Date, the Releasing Defendants shall be deemed to have fully, finally, and forever waived, released, discharged, and dismissed each and every one of the Released Defendant Claims against each and every one of the Released Plaintiffs and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any of the Released Defendant Claims against any of the Released Plaintiffs.

11. Nothing in this Judgment shall prevent any Person that timely submitted a valid request for exclusion from the Class from commencing, prosecuting, or asserting any Released Plaintiff Claim against any Released Defendant. If any such Person commences, prosecutes, or asserts any Released Plaintiff Claim against any Released Defendant, nothing in this Judgment shall prevent the Released Defendant from asserting any claim of any kind against such Person, including any of the Released Defendant Claims, or from seeking contribution or indemnity from any Person, including another Released Defendant, in respect of the claim of that Person who is excluded from the Class pursuant to a timely and valid request for exclusion.

12. **Bar Order.** Upon the Effective Date, except as provided in Paragraph 10 of this Judgment, any and all Persons are permanently barred and enjoined, to the fullest extent permitted by law, from commencing, prosecuting, or asserting any and all claims for indemnification, advancement or contribution (or any other claim when the alleged injury to that Person is that Person's actual or threatened liability to the Class or a Class Member in the Action) based upon, relating to, arising out of, or in connection with the Released Plaintiff Claims, against each and every one of the Released Defendants, whether arising under state, federal, common, or foreign law, as claims, cross-claims, counterclaims, or third-party claims, in this Action or a separate action, in this Court or in any other court, arbitration proceeding, administrative proceeding, or other forum; and, except as provided in Paragraph 12 below, the Releasing Defendants are permanently barred and enjoined, to the fullest extent permitted by law, from commencing, prosecuting, or asserting any and all claims for contribution or indemnity (or any other claim when the alleged injury to the Releasing Defendant is that Releasing Defendant's actual or threatened liability to the Class or a Class Member in the Action) based upon, relating to, or arising out of the Released Plaintiff Claims, against any

Person, other than a Person whose liability to the Class has been extinguished pursuant to the Settlement and the Judgment, whether arising under state, federal, common, or foreign law, as claims, cross-claims, counterclaims, or third-party claims, in this Action or a separate action, in this Court or in any other court, arbitration proceeding, administrative proceeding, or other forum. Nothing herein shall release or alter the contractual rights, if any, (i) between or among the Underwriter Defendants under their applicable Master Agreement Among Underwriters relating to any offering of securities by BoA, or (ii) between the Underwriter Defendants, on the one hand, and BoA, on the other hand, under any applicable Underwriting Agreements with respect to any right of indemnification or reimbursement in connection with the payment of the Settlement Amount or incurrence of defense costs.

13. Notwithstanding Paragraph 12 of this Judgment, nothing in the Stipulation or this Judgment shall bar any action by any of the Settling Parties to enforce or effectuate the terms of the Stipulation, the Settlement, the Preliminary Approval Order or this Judgment.

14. **Rule 11 Finding.** The Court further finds that during the course of the Action, the Settling Parties and their respective counsel and their employees and agents, at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

15. **Binding Effect of Judgment.** Each Class Member, whether or not such Class Member executes and delivers a Proof of Claim or seeks or obtains a distribution from the Net Settlement Fund, is bound by this Judgment, including, without limitation, the release of claims as set forth in Paragraphs 9-11 of this Judgment. The Persons listed in Exhibit A annexed hereto are excluded from the Class pursuant to their requests for exclusion and are not bound by the terms of the Stipulation or this Judgment.

16. **Use of this Judgment.** This Judgment, the Stipulation, the Settlement (whether or not consummated) and any discussions, negotiations, acts performed, proceedings, communications, drafts, documents or agreements relating to the Stipulation, the Settlement, and any matters arising in connection with settlement discussions or negotiations, proceedings, communications or agreements, shall not be offered or received against or to the prejudice of any Releasing Party for any purpose other than in an action to enforce the terms of the Stipulation and the Settlement, and in particular:

(a) do not constitute, and shall not be described as, construed as, or otherwise offered or received against any Releasing Defendant as evidence of (or deemed to be evidence of) any admission, concession, or presumption by any of the Releasing Defendants with respect to (i) the truth of any allegation in any complaint filed, or any amended complaint proposed to be filed, in the Action (whether by Lead Plaintiff or otherwise); (ii) the validity of any claim that has been or could have been asserted in the Action or in any litigation or proceeding in any forum, including but not limited to the Released Plaintiff Claims; (iii) the deficiency of any defense that has been or could have been asserted in the Action or in any other litigation or proceeding in any forum; or (iv) any liability, damages, negligence, fault, or wrongdoing of the Defendants or any Person whatsoever;

(b) do not constitute, and shall not be described as, construed as, or otherwise offered or received against any Releasing Defendant as evidence of (or deemed to be evidence of) any admission, concession, or presumption of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by any Releasing Defendant, or against any Releasing Plaintiff as evidence of any infirmity in the Released Plaintiff Claims;

(c) do not constitute, shall not be described as, construed as, or offered or received against or to the prejudice of any of the Releasing Parties as evidence of (or deemed to be evidence of) any admission, concession, or presumption with respect to any liability, damages, negligence, fault, infirmity, or wrongdoing, or in any way referred to for any other reason against or to the prejudice of any Releasing Party, in any other civil, criminal, or administrative action or proceeding;

(d) do not constitute, and shall not be described as, construed as, or otherwise offered or received against any Releasing Party as evidence of (or deemed to be evidence of) any 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) do not constitute, and shall not be described as, construed as, or otherwise offered or received against any Releasing Party as evidence of (or deemed to be evidence of) any admission, concession, or presumption that any Released Claim is without merit or infirm or that damages recoverable under the any of the complaints filed or proposed to be filed in the Action would not have exceeded the Settlement Amount.

17. **Retention of Jurisdiction.** Without affecting the finality of this Judgment in any way, this Court hereby retains continuing and exclusive jurisdiction over: (i) the implementation of the Settlement; (ii) the allowance, disallowance, or adjustment of any Class Member's claim on equitable grounds and any award or distribution of the Settlement Fund; (iii) the disposition of the Settlement Fund; (iv) the hearing and determination of any applications for attorney's fees, costs, interest, and reimbursement of litigation expenses in the Action that will be paid out of the Settlement Fund; (v) the hearing and determination of any motions to approve the Plan of Allocation or the Distribution Order; (vi) all Settling Parties for the purpose of construing,

enforcing, and administering the Settlement and this Judgment; and (vii) other matters related or ancillary to the foregoing.

18. **Termination.** If the Settlement does not become effective in accordance with the terms of the Stipulation or is terminated as provided in the Stipulation (including any amendments thereof and supplement agreements thereto), then this Judgment shall be vacated, rendered null and void, and be of no further force and effect, except as provided by and in accordance with the Stipulation, and in that event, 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, and the Settling Parties shall be deemed to have reverted to their respective litigation positions in the Action as of August 12, 2015. Consistent with Paragraph 47 of the Stipulation:

(a) within five (5) business days, the Settlement Fund (including the Settlement Amount and accrued interest thereon), less any Notice and Administration Expenses actually incurred or paid, and less any Taxes paid or due or owing, shall be refunded to the Person(s) that made the deposit(s) in accordance with instructions provided by BoA to Lead Counsel;

(b) no later than thirty (30) calendar days after receiving notice of any of the events set forth in Paragraph 22 of the Stipulation, Lead Counsel shall refund the full amount of any award of attorneys' fees and litigation expenses already paid to Lead Counsel, of any paid amounts, plus accrued earnings at the same net rate and for the same periods as is earned by the Settlement Fund;

(c) the Settlement shall be null, void, and without prejudice, and none of its terms shall have any further force or effect or be enforceable except as specifically provided herein;

(d) the Action shall proceed in all respects as if the Stipulation had not been entered and all negotiations, discussions, acts, Court orders, and other proceedings in connection therewith shall be treated as if they never existed;

(e) the parties to the Stipulation shall be deemed to have reverted to their respective litigation positions in the Action as of August 12, 2015 (when the parties reached an agreement in principle to settle the Action);

(f) any judgment(s) or order(s) entered by the Court in accordance with or as a result of the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*;

(g) the parties shall have the full and complete right and ability in any future proceedings in this Court to litigate the claims and defenses asserted in the Action on the merits; and

(h) the facts and terms of the Stipulation and any aspect of the discussions and negotiations leading to the Stipulation, shall not be admissible in this Action or any other action, or used in any court filings, depositions, at trial, or otherwise.

19. **Administration of the Settlement.** Without further order of the Court, Lead Plaintiff and Defendants may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

20. Lead Plaintiff and Defendants are hereby directed to consummate the Stipulation and to perform its terms.

21. **Plan of Allocation and Fee and Expense Application.** Separate Orders shall be entered regarding approval of the Plan of Allocation and the Fee and Expense Application. Those orders shall in no way disturb, affect, or delay this Judgment or the Effective Date of the Settlement and shall be considered separate from this Judgment. Further, consistent with the Opinion & Order entered December 27, 2016 (ECF No. 374): (a) with regard to the Plan of Allocation,

the New York Bar Foundation is hereby designated as the recipient of any cy pres residual monies remaining in the Settlement Fund after the allocation of funds to eligible class member claimants (including a reallocation of funds to those class members who have cashed initial checks); and (b) with regard to the Fee and Expense Application, attorneys' fees may be paid once 75% of the Settlement Fund has been distributed.

22. **Entry of Final Judgment.** There is no just reason for delay in the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this Judgment in this Action.

Dated: December 30, 2016
New York, NY

SO ORDERED: _____


WILLIAM H. PAULEY III
U.S.D.J.