

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

BLACKROCK CORE BOND PORTFOLIO,
et al.,

Plaintiffs,

-against-

WELLS FARGO BANK, NATIONAL
ASSOCIATION,

Defendant.

Index No. 656587/2016

Justice Andrew Borrok (Part 53)

**PLAINTIFFS' NOTICE OF
UNOPPOSED MOTION FOR
APPROVAL OF DISTRIBUTION
PLAN**

PLEASE TAKE NOTICE that, pursuant to the Court's May 6, 2019 Order and Final Judgment [NYSCEF No. 197], and upon the annexed Affidavit of Luiggy Segura, sworn to on May 21, 2020, the accompanying Memorandum of Law in Support, and upon all the other papers and proceedings herein, Plaintiffs, on behalf of themselves and the Settlement Class, through Counsel, will move this Court, at the Motion Submission Part, Room 130, to be held at the Courthouse at 60 Centre Street, New York, New York on June 1, 2020, at 9:30 a.m. or as soon thereafter as counsel may be heard, for orders: (1) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of claims and approving the fees and expenses of the Claims Administrator; and (2) directing that the Net Settlement Fund be distributed from the Escrow Account.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 2214(b), answering papers, if any, are to be served so as to be received by the undersigned no later than two (2) days prior to the return date of this motion.

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**MEMORANDUM IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

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Plaintiffs submit this memorandum in support of their motion for entry of the proposed Order Approving Distribution Plan (the “Class Distribution Order”) for the proceeds of the Settlement in the above-captioned Action.¹ The Distribution Plan is included in the accompanying Affidavit of Luiggy Segura in Support of Plaintiffs’ Unopposed Motion for Approval of Distribution Plan (the “Segura Affidavit” or “Segura Aff.”), submitted on behalf of the Court-approved Claims Administrator, JND Legal Administration (“JND”).

If entered by the Court, the Class Distribution Order would, among other things, (i) approve JND’s administrative recommendations accepting and rejecting Claims submitted in the Action; (ii) direct the Initial Distribution of the Net Settlement Fund to Claimants whose Claims are accepted by JND as valid and approved by the Court, while maintaining a Reserve for any tax liability and claims administration-related contingencies that may arise; and (iii) approve JND’s fees and expenses incurred and estimated to be incurred in the administration of the Settlement.

Defendant Wells Fargo does not oppose this motion.² There are no disputed Claims by any Settlement Class Member requiring Court review. As such, the motion is ripe for determination.

STATEMENT OF ISSUES TO BE DECIDED

Whether the Court should enter the proposed Class Distribution Order which will, among other things, approve the Claims Administrator’s administrative determinations accepting and rejecting Claims submitted in connection with the Settlement, approve the recommended plan for

¹ Unless otherwise indicated in this memorandum, all terms with initial capitalization shall have the meanings ascribed to them in the Segura Affidavit or the Stipulation and Agreement of Settlement dated November 9, 2018 [NYSCEF No. 149] (the “Stipulation”).

² Wells Fargo has no role in or responsibility for the administration of the Settlement Fund or processing of Claims, including determinations as to the validity of Claims or the distribution of the Net Settlement Fund. *See* Stipulation ¶¶ 28, 35.

any funds remaining after the distribution, approve the Claims Administrator's fees and expenses, and exclude additional individuals from the Settlement Class pursuant to their requests.

I. BACKGROUND

The Court has approved the Stipulation entered into by Plaintiffs, on behalf of themselves and the other members of the Settlement Class, and the Defendant in the Action. The Stipulation sets forth the terms of the Settlement, which represented a complete resolution of this Action in return for \$43 million in cash (the "Settlement Amount" or "Settlement Fund").

In accordance with the Order (1) Directing Notice to the Proposed Settlement Class of the Proposed Settlement and Fairness Hearing, and (2) Setting Date for Fairness Hearing [NYSCEF No. 156] (the "Preliminary Approval Order") entered by the Court, the Court-approved Claims Administrator JND has mailed the Notice of Pendency of Class Action, Proposed Settlement and Fairness Hearing and Right to Appear (the "Notice") and Proof of Claim and Release (the "Claim Form" and, together with the Notice, the "Notice Packet") to potential Settlement Class Members, brokers, and other nominees. Segura Aff. ¶ 2. As stated in the Segura Affidavit, JND has disseminated 31,762 Notice Packets to potential Settlement Class Members, brokers and nominees. *Id.* ¶ 4. The Notice informed Settlement Class Members that if they wished to be eligible to participate in the distribution of the Net Settlement Fund, they were required to submit a properly executed Claim Form received or postmarked no later than July 2, 2019. *Id.* ¶ 7.

On May 6, 2019, the Court granted final approval in its Order Approving Plan of Allocation of Net Settlement Fund [NYSCEF No. 198] (the "Final Approval Order") and entered the Order and Final Judgment [NYSCEF No. 197] (the "Judgment"). The Effective Date of the Settlement has occurred. Accordingly, the Net Settlement Fund may be distributed to Authorized Claimants.

In accordance with paragraphs 36 of the Stipulation, Plaintiffs respectfully ask the Court to enter the Class Distribution Order approving the Distribution Plan.³

II. CLAIMS ADMINISTRATION

As detailed in the accompanying Segura Affidavit, through April 30, 2020, JND received and processed 9,852 Claims. Segura Aff. ¶ 7. All Claims received through April 30, 2020, have been fully processed in accordance with the Stipulation and Court-approved Plan of Allocation included in the Notice (*id.*), and JND has worked with Claimants to help them perfect their Claims (*see id.* ¶¶ 19-30). Of the 9,852 Claims that are the subject of this motion, JND has determined that 4,301 are acceptable in whole or in part, and that 5,551 should be wholly rejected because they are ineligible for payment from the Net Settlement Fund. *Id.* ¶¶ 39-42.

As discussed in the Segura Affidavit, some of the Claims submitted in the Settlement were initially deficient or ineligible for one or more reasons, including being incomplete, not signed, not properly documented, or otherwise deficient, which required substantial follow-up work by JND. *Id.* ¶¶ 19, 22. If JND determined a Claim to be defective or ineligible, a letter (if the Claimant filed a paper Claim), or an email (if the Claimant filed an electronic Claim), was sent by JND to the Claimant or filer, as applicable, describing the defect(s) or condition(s) of ineligibility in the Claim and what was necessary to cure any curable defect(s) in the Claim (the “Deficiency Notices”). *Id.* ¶¶ 20, 22. The Deficiency Notices advised the Claimant or filer that the appropriate information or documentary evidence to complete the Claim had to be sent within 20 days from the date of the Deficiency Notice, or JND would recommend the Claim for rejection to the extent

³ The Court retained continuing and exclusive jurisdiction over, among other things, implementing the Settlement, including the disposition of the Settlement Fund and any motion to approve the Class Distribution Order. *See* Judgment ¶ 19.

the deficiency or condition of ineligibility was not cured. *Id.* ¶¶ 20, 23. Examples of the Deficiency Notices are attached as Exhibits A and B to the Segura Affidavit.

A. No Disputed Claims

JND carefully reviewed Claimants' and filers' responses to the Deficiency Notices and worked with them to resolve deficiencies where possible. Segura Aff. ¶¶ 21, 26. Consistent with paragraph 33 of the Stipulation, the Deficiency Notices specifically advised Claimants and filers of their right, within 20 days after the mailing or emailing of the Deficiency Notice, to contest the rejection of the Claim and request Court review of the administrative determination of the Claim. *Id.* ¶¶ 20, 23, and Exhibits A and B. There are no requests for Court review by any Claimants. *Id.* ¶ 32.

B. Late Claims and Final Cut-Off Date

The 9,852 Claims received through April 30, 2020, include 810 that were postmarked or received after the Court-approved Claim submission deadline of July 2, 2019, but that were received before April 30, 2020. Segura Aff. ¶¶ 33, 41. Those late Claims have been fully processed, and 547 of them are, but for their late submission, otherwise eligible to participate in the Settlement. *Id.* Although these 547 Claims were untimely, they were received while the processing of timely Claims was ongoing. Due to the amount of time needed to process the timely Claims received, the processing of these late Claims did not delay the completion of the Claims administration process or the distribution of the Net Settlement Fund. The Court has discretion to accept Claims received after the submission deadline.⁴ Plaintiffs respectfully submit that, when the equities are balanced,

⁴ See Notice Appendix III at 6 [NYSCEF No. 165] (“All members of the Settlement Class who fail to timely submit an acceptable Proof of Claim Form by the deadline set forth in the Notice, *or such other deadline as may be ordered by the Court, or otherwise allowed*, shall be forever barred from receiving any payments pursuant to the Settlement...”) (emphasis added).

it would be unfair to prevent these otherwise eligible Claims from participating in the distribution of the Net Settlement Fund solely because they were received after the Court-approved Claim submission deadline because they were submitted while timely Claims were still being processed.

To facilitate the efficient distribution of the Net Settlement Fund, however, there must be a final cut-off date after which no other Claims may be accepted. Accordingly, Plaintiffs respectfully request that the Court order that any new Claims and any adjustments to previously filed Claims that would result in an increased Recognized Claim amount received after April 30, 2020, be barred, subject to the provisions of paragraph 45(f) of the Segura Affidavit.⁵

At the time when Plaintiffs' Counsel, in consultation with the Claims Administrator JND, determines that a further distribution is not cost-effective as provided in paragraph 45(e) of the Segura Affidavit, any Claims received or modified after April 30, 2020, that would have been eligible for payment or additional payment under the Court-approved Plan of Allocation if timely received, may be paid the distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks (after payment of fees and expenses as provided in paragraph 45(f) of the Segura Affidavit, at the discretion of Plaintiffs' Counsel, and to the extent possible).

III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR

The Court previously approved JND to serve as the Claims Administrator. In that role, JND has been responsible for, among other things, disseminating notice of the Settlement to the Settlement Class, creating and maintaining a website and toll-free telephone helpline, processing Claims, and allocating and distributing the Net Settlement Fund to Authorized Claimants. Segura

⁵ Should an adjustment be received that results in a lower Recognized Claim amount, that adjustment will be made, and the Recognized Claim amount will be reduced accordingly prior to a distribution to that Claimant. Segura Aff. ¶ 34.

Aff. ¶ 2. As stated in the accompanying Segura Affidavit, JND's fees and expenses for its work performed through May 15, 2020, are \$408,837.28. *Id.* ¶ 44. Brokerage firms and nominees' charges for the mailing of Notice Packets totaled \$38,999.62 and the estimate fees and expenses for the Initial Distribution to be performed on behalf of the Settlement Class are \$18,449.31.⁶ *Id.* To date, JND has received payment in the amount of \$327,791.98 for its fees and expenses. *Id.* Accordingly, there is an outstanding balance of \$120,044.92 payable to JND, plus the additional request of \$18,449.31 in estimated fees and expenses to be incurred by JND in connection with the Initial Distribution. *Id.* Plaintiffs' Counsel reviewed JND's invoices and respectfully requests on behalf of Plaintiffs that the Court approve JND's fees and expenses.

IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

The Net Settlement Fund is ready to be distributed. Plaintiffs respectfully move the Court for entry of an order approving JND's determinations concerning acceptance and rejection of the Claims that are included in the present motion and approving the proposed Distribution Plan as stated in the Segura Affidavit.

A. Distribution of the Net Settlement Fund

Under the proposed Distribution Plan, JND will distribute approximately 95% of the Net Settlement Fund, after deducting all payments previously allowed and the payments approved by the Court on this motion, and after deducting payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees (the "Initial Distribution"). In the Initial Distribution, JND will calculate award amounts for all Authorized Claimants as if the entire Net Settlement

⁶ Should the estimate of fees and expenses to conduct the Initial Distribution of the Net Settlement Fund exceed the actual cost to conduct the distribution, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. Segura Aff. ¶ 44 n.2.

Fund were to be distributed now. JND will first determine each Authorized Claimant's *pro rata* share of the total Net Settlement Fund based on the Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *See* Segura Aff. ¶ 45(a)(1).

Under the proposed Distribution Plan, JND will eliminate from the Initial Distribution any payment for an Authorized Claimant whose *pro rata* share calculates to less than a *de minimis* amount of \$10.00, as the cost of mailing such checks or wires and following up on uncashed checks would likely exceed the *de minimis* payments these Claimants would receive.⁷ Claimants who will not receive any payment from the Net Settlement Fund will be so notified by JND. *Id.* ¶ 45(a)(2).

After eliminating Claimants who would have received less than the *de minimis* amount of \$10.00, JND will then recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more (the "Distribution Amount"). *Id.* ¶ 45(a)(3). Authorized Claimants whose Distribution Amount calculates to less than \$100.00 under subparagraph 45(a)(4) of the Segura Affidavit will be paid their full Distribution Amount in the Initial Distribution ("Claims Paid in Full"). After deducting the payments to the Claims Paid in Full, 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$10.00 or more under subparagraph 45(a)(5) of the Segura Affidavit. The remaining 5% of the Net Settlement Fund will be held in reserve (the "Reserve") to address any tax liability and claims administration-related contingencies that may arise. To the extent the Reserve is not depleted, the remainder will be distributed in the "Second Distribution." *Id.* ¶ 45(a)(5).

⁷ *In re Gilat Satellite Networks, Ltd.*, No. CV-02-1510, 2007 WL 1191048, at *9 (E.D.N.Y. Apr. 19, 2007) ("*de minimis* thresholds for payable claims are beneficial to the class as a whole since they save the settlement fund from being depleted by the administrative costs associated with claims unlikely to exceed those costs and courts have frequently approved such thresholds, often at \$10").

In order to encourage Authorized Claimants to cash their checks promptly, Plaintiffs propose that the distribution checks bear the notation, “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” *Id.* ¶ 45(b). Authorized Claimants who do not cash their checks within the time allotted or on the conditions stated in the Segura Affidavit will irrevocably forfeit all recovery from the Settlement, and the funds allocated to these stale-dated checks will be available to be redistributed to other Authorized Claimants in any subsequent distribution, as described below. *Id.* ¶ 45(c).

B. Additional Distribution(s) of the Net Settlement Fund

After JND has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, but not earlier than one (1) year after the Initial Distribution, JND will, after consulting with Plaintiffs’ Counsel, conduct a second distribution of the Net Settlement Fund (the “Second Distribution”). In the Second Distribution, any amounts remaining in the Net Settlement Fund after the Initial Distribution (including from the Reserve and the funds for all void stale-dated checks), after deducting JND’s unpaid fees and expenses incurred in connection with administering the Settlement (including the estimated costs of the Second Distribution), and after deducting payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants who cashed their Initial Distribution checks and would receive at least \$10.00 from the Second Distribution based on their *pro rata* share of the remaining funds. Segura Aff. ¶ 45(d). If, after the Second Distribution, any funds remain in the Net Settlement Fund because of uncashed checks or otherwise, then after JND has made reasonable and diligent efforts to have Authorized Claimants cash their distribution checks and if cost-effective, subsequent distributions of the funds remaining in the Net Settlement Fund, after deduction of costs and expenses as described above and subject to the same conditions, will

take place at six-month intervals thereafter. *Id.* When Plaintiffs' Counsel, in consultation with JND, determines that further distribution is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after April 30, 2020, JND will process those Claims. Any of these Claims that are otherwise valid, as well as any earlier received Claims for which an adjustment was received after April 30, 2020, which resulted in an increased Recognized Claim, may be paid in accordance with paragraph 45(f) of the Segura Affidavit. *Id.* ¶ 45(e). If any funds remain in the Net Settlement Fund after payment of these late or late-adjusted Claims, the remaining balance of the Net Settlement Fund, after payment of any unpaid fees or expenses incurred in administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to appropriate non-profit organization(s) designated by Plaintiffs' Counsel and approved by the Court. *Id.*

V. RELEASE OF CLAIMS

In order to allow the full and final distribution of the Net Settlement Fund, it is necessary to bar any further claims against the Net Settlement Fund beyond the amounts allocated to Authorized Claimants and to provide that all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, be released and discharged from all claims arising out of that involvement. Accordingly, Plaintiffs respectfully request that the Court release and discharge all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement

Fund from all claims arising out of that involvement, and bar all Settlement Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, from making any further claims against the Net Settlement Fund, Plaintiffs, Plaintiffs' Counsel, the Claims Administrator, the Escrow Agent, or any other agent retained by Plaintiffs or Plaintiffs' Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants.

VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully submit that Plaintiffs' Unopposed Motion for Approval of Distribution Plan should be granted, and the [Proposed] Order Approving Distribution Plan should be entered.

Dated: May 21, 2020
New York, New York

**BERNSTEIN LITOWITZ BERGER
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Index No. 656587/2016

Justice Andrew Borrok (Part 53)

**AFFIDAVIT OF LUIGGY SEGURA IN SUPPORT OF
PLAINTIFFS' UNOPPOSED MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

LUIGGY SEGURA, being duly sworn, deposes and says:

1. I am a Director at JND Legal Administration (“JND”). I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth in this affidavit and, if called as a witness, could and would testify competently thereto.

2. JND was retained by Plaintiffs’ Counsel to serve as the Claims Administrator in connection with the Settlement of the above-captioned action (the “Action”).¹ In its Order (1) Directing Notice to the Proposed Settlement Class of the Proposed Settlement and Fairness Hearing, and (2) Setting Date for Fairness Hearing NYSCEF No. 156 (the “Preliminary Approval Order”), the Court approved the retention of JND as the Claims Administrator. As Claims Administrator, JND has, among other things: (i) mailed the Notice of Pendency of Class Action, Proposed Settlement and Fairness Hearing and Right to Appear (the “Notice”) and Proof of Claim and Release (the “Claim Form” and, together with the Notice, the “Notice Packet”) to potential Settlement Class Members and brokers and other nominees; (ii) created and continues to maintain a toll-free helpline for inquiries during the course of the administration; (iii) created and continues to maintain a Settlement website and posted case-specific documents on it; (iv) caused the Summary Notice to be published; (v) provided, upon request, additional copies of the Notice Packet to potential Settlement Class Members, brokers, and other nominees; and (vi) received and processed each Claim Form submitted to the Claims Administrator (a “Claim”).

3. On May 6, 2019, the Court granted final approval in its Order Approving Plan of Allocation of Net Settlement Fund NYSCEF No. 198 (the “Final Approval Order”) and entered the Order and Final Judgment NYSCEF No. 197 (the “Judgment”). JND has completed

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated November 9, 2018 NYSCEF No. 149 (the “Stipulation”). The Settlement is contained in the Stipulation.

processing all Claims received through April 30, 2020, in accordance with the terms of the Stipulation and the Court-approved Plan of Allocation set forth in the Notice, and hereby submits its administrative determinations accepting and rejecting the Claims in preparation for a distribution of the Net Settlement Fund to Authorized Claimants. JND also presents this affidavit in support of Plaintiffs' Unopposed Motion for Approval of Distribution Plan.

DISSEMINATION OF NOTICE

4. As more fully described in the Supplemental Affidavit of Jack Ewashko Regarding (A) Mailing of the Notice and Claim Form; and (B) Report on Requests for Exclusion Received NYSCEF No. 191 (the "Supp. Mailing Aff."), as of April 26, 2019, JND had mailed 22,908 Notice Packets to potential Settlement Class Members and their nominees. Supp. Mailing Aff. ¶ 3. Since that date, 8,854 additional Notice Packets have been disseminated. In total, JND has disseminated 31,762 Notice Packets to potential Settlement Class Members, brokers, and other nominees.

5. JND established and continues to maintain a website (www.BlackRockWellsFargoTrusteeClassAction.com) and a toll-free telephone helpline (1-833-843-2644) to assist potential Settlement Class Members. The Settlement website (which provides access to important documents relevant to the Settlement) and the telephone helpline enable Settlement Class Members to obtain information about the Settlement. In connection with establishing and maintaining the Settlement website and toll-free telephone hotline, JND, among other things, formulated a system to ensure that proper responses were provided to all telephone and electronic inquiries. That work included training telephone agents to respond to inquiries specific to the Settlement; developing a series of common questions and the answers thereto, known as Frequently Asked Questions, or "FAQs"; loading key documents onto the Settlement

website; and programming the Settlement website to permit the viewing and downloading of those documents.

6. In accordance with Paragraph 7(iii) of the Preliminary Approval Order, on March 4, 2019, JND caused the Notice to be published in *Investor's Business Daily*.

PROCEDURES FOLLOWED IN PROCESSING CLAIMS

7. Under the terms of the Preliminary Approval Order and as set forth in the Notice, each Settlement Class Member who wished to be eligible to receive a distribution from the Net Settlement Fund was required to complete and submit to JND a properly executed Claim Form postmarked no later than July 2, 2019, together with adequate supporting documentation for the transactions and holdings reported in the Claim. Through April 30, 2020, JND has received and fully processed 9,852 Claims (the "Presented Claims").

8. In preparation for receiving and processing Claims, JND: (i) conferred with Plaintiffs' Counsel to define the guidelines for processing Claims; (ii) created a unique database to store Claim details, images of Claims, and supporting documentation (the "Settlement Database"); (iii) trained staff in the specifics of the Settlement so that Claims would be properly processed; (iv) formulated a system so that telephone and email inquiries would be properly responded to; (v) developed various computer programs and screens for entry of Settlement Class Members' identifying information and their transactional information; and (vi) developed a proprietary "calculation module" that would calculate Recognized Claims pursuant to the Court-approved Plan of Allocation of the Net Settlement Fund stated in the Notice.

9. Settlement Class Members seeking to share in the Net Settlement Fund were directed in the Notice to submit their Claims to a post office box address specifically designated for the Settlement. Notice Packets returned by the United States Postal Service as undeliverable

were reviewed for updated addresses and, where available, updated addresses were entered into the Settlement Database and Notice Packets were mailed to the updated addresses. Any correspondence received at the post office box was reviewed and, when necessary, appropriate responses were provided to the senders.

PROCESSING CLAIMS

A. Paper Claims

10. Of the 9,852 Presented Claims, 1,273 are paper Claims. Once received, the paper Claims were opened and prepared for scanning. This process included unfolding documents, removing staples, copying nonconforming-sized documents, and sorting documents. This manual task of preparing the paper Claims is very laborious and time-intensive. Once prepared, paper Claims were scanned into the Settlement Database together with all submitted documentation. Subsequently, each Claim was assigned a unique Claim number. Once scanned, the information from each Claim (including the Claimant's name, address, account number/information the supporting documentation, and the Claimant's purchase/acquisition transactions, sale transactions, and holdings listed on the Claim) was entered into the Settlement Database. Once entered into the Settlement Database, each Claim was reviewed to verify that all required information had been provided. The documentation provided by the Claimant in support of the Claim was reviewed for authenticity and compared to the information provided in the Claim to verify the Claimant's identity and the purchase/acquisition transactions, sale transactions, and holdings listed on the Claim.

11. To process the transactions detailed in the Claims, JND utilized internal messages to identify and classify deficiency or ineligibility conditions existing within those Claims. Appropriate messages were assigned to the Claims as they were processed. For example, where

a Claim was submitted by a Claimant who did not have any eligible transactions in a security issued from the 271 Residential Mortgage-Backed Securities during the Settlement Class Period (e.g., the Claimant at anytime on or after June 18, 2014, held or acquired a beneficial interest of the eligible certificates), that Claim would receive a “Claim-level” message that denoted ineligibility. Similar Claim-level ineligible messages were used to denote other ineligible conditions, such as duplicate Claims. These messages would indicate to JND that the Claimant was not eligible to receive any payment from the Net Settlement Fund with respect to that Claim unless the deficiency was cured in its entirety. Examples of Claim-level messages are as follows:

- Inadequate Documentation Submitted for Entire Claim
- No Supporting Documentation Submitted for Entire Claim
- No Purchase Transaction in the Class Period

12. Because a Claim may be deficient only in part, but otherwise acceptable, JND utilized messages that were applied only to specific transactions within a Claim. For example, if a Claimant submitted a Claim with supporting documentation for all but one purchase transaction, that one transaction would receive a “transaction-level” message. The message indicated that although the transaction was deficient, the Claim was otherwise eligible for payment if other transactions in the Claim calculated to a Recognized Claim according to the Court-approved Plan of Allocation. Thus, even if the transaction-level deficiency was never cured, the Claim could still be partially accepted. Examples of transaction-level messages are as follows:

- No Supporting Documentation for Specific Transaction/Position
- Inadequate Documentation for Specific Transaction/Position
- Illegible Documentation for Specific Transaction/Position

B. Electronic Claims

13. Of the 9,852 Presented Claims, 8,579 were filed electronically (“Electronic Claims”). Electronic Claims are typically submitted by institutional investors (“Electronic Claim Filers” or “E-Claim Filers”) who may have hundreds or thousands of transactions during the Settlement Class Period. Rather than provide reams of paper requiring data entry, the E-Claim Filers submitting Electronic Claims either mail a computer disc or electronically submit a file to JND so that JND can upload all transactions to the Settlement Database.

14. JND maintains an electronic filing operations team (the “Electronic Filing Team”) to coordinate and supervise the receipt and handling of all Electronic Claims. In this case, the Electronic Filing Team reviewed and analyzed each electronic file to ensure that it was formatted in accordance with JND’s required format and to identify any potential data issues or inconsistencies within the file. If any issues or inconsistencies arose, JND notified the filer. If the electronic file was deemed to be in an acceptable format, it was then loaded to the Settlement Database.

15. Once each electronic file was loaded, the Electronic Claims were coded with messages to denote any deficient or ineligible conditions that existed within them. These messages are similar to those applied to paper Claims. In lieu of manually applying messages, the Electronic Filing Team performed programmatic reviews on Electronic Claims to identify deficient and ineligible conditions (such as, but not limited to, price out-of-range issues, out-of-balance conditions, transactions outside the Settlement Class Period, etc.). The output was thoroughly verified and confirmed as accurate.

16. The review process also included message coding any Electronic Claims that were not accompanied by a signed Claim Form, which serves as a “Master Proof of Claim Form” for

all Claims referenced on the electronic file submitted. This process was reviewed by JND's Electronic Filing Team and, when appropriate, JND contacted the E-Claim Filers whose submissions were missing information. This ensured that only fully completed Claims, submitted by properly authorized representatives of the Claimants, were considered eligible for payment from the Net Settlement Fund.

17. Finally, at the end of the process, JND performed various targeted reviews of the Electronic Claims. Specifically, JND used criteria such as the calculated Recognized Claims and other identified criteria to message code and reach out to a number of E-Claim Filers and request that various sample purchases, sales, and holdings selected by JND be documented by providing confirmation slips or other transaction-specific supporting documentation. These targeted reviews help to ensure that electronic data supplied by Claimants does not contain inaccurate information.

EXCLUDED PERSONS

18. JND also reviewed all Claims to ensure that they were not submitted by, or on behalf of, "Excluded Persons," to the extent that the identities of such persons or entities were known to JND through the list of Defendants and other excluded persons and entities set forth in the Stipulation and the Notice and from the Claimants' certifications on the Claim Forms. JND also reviewed all Claims against the list of persons who were excluded from the Settlement Class pursuant to request.

THE DEFICIENCY PROCESS

A. Paper Claims

19. Approximately 48% of the paper Claims, i.e., 615 of the 1,273 paper Claims, were initially incomplete or had one or more defects or conditions of ineligibility, such as the Claim not being signed, not being properly documented, or indicating no eligible Certificates during the

Settlement Class Period. The “Deficiency Process,” which primarily involved mailing letters to Claimants and responding to communications from Claimants by email and/or telephone, was intended to assist Claimants in properly completing their otherwise deficient submissions so that they could be eligible to participate in the Settlement.

20. If paper Claims were determined to be defective, a Notice of Deficient/Ineligible Claim Submission (“Deficiency Notice”) was sent to the Claimants describing the defect(s) in the Claims and what, if anything, was necessary to cure the defect(s) in these Claims. The Deficiency Notice advised Claimants that submission of appropriate information and/or documentary evidence to complete the Claim had to be sent within twenty (20) days from the date of the Deficiency Notice or the Claim would be recommended for rejection to the extent that the deficiency or condition of ineligibility was not cured. The Deficiency Notice also advised Claimants that to contest these administrative determinations, they were required to submit written statements to JND requesting Court review of their Claims and setting forth the basis for such requests. JND sent a total of 615 Deficiency Notices to Claimants who filed paper Claims that JND determined to be defective. Attached hereto as Exhibit A is an example of a Deficiency Notice.

21. Claimants’ responses to Deficiency Notices were scanned into the Settlement Database and associated with the corresponding Claims. The responses were then carefully reviewed and evaluated by JND’s team of processors. If a Claimant’s response corrected the defect(s), JND manually updated the Settlement Database to reflect the changes in the status of the Claim.

B. Electronic Claims

22. In addition, for Electronic Claims, JND used the following process to contact the banks, brokers, nominees, and other filers who submitted their data electronically to confirm receipt of their submissions and to notify the filers of any deficiencies or Electronic Claims that were ineligible. These E-Claim Filers were sent an email to the email address included with their Claim Form (“Deficiency Email”) with an attached report containing detailed information associated with the Claims and indicating which of those Claims within the filing were deficient and/or rejected (“Deficiency Spreadsheet”).

23. The Deficiency Email sent to the email address of record provided with the Claim Form:

- (a) Notified the filer that any Claims with deficiencies not corrected within twenty (20) days from the date of the Deficiency Email may be rejected;
- (b) Advised the filer of the right to contest the rejection of the Claim(s) and request this Court’s review of JND’s administrative determination within twenty (20) days from the date of the Deficiency Email; and
- (c) Provided instructions for how to submit corrections.

24. The Deficiency Spreadsheet attached to the Deficiency Email identified each of the individual Claims that were found to be deficient or ineligible and the basis for that deficiency or condition of ineligibility.

25. JND has mailed a Deficiency Email and Deficiency Spreadsheet to 175 E-Claim Filers concerning 7,305 Electronic Claims. Samples of a Deficiency Email and Deficiency Spreadsheet are attached hereto as Exhibits B and C, respectively.

26. The E-Claim Filers' responses were reviewed by the Electronic Filing Team, scanned and/or loaded into the Settlement Database, and associated with the corresponding Electronic Claims. If a response corrected the defect(s) or affected a Claim's status, JND manually and/or programmatically updated the Settlement Database to reflect such change in the status of the Claim.

C. Contacting Claimants Who Did Not Cure Deficiencies

27. After responses to the Deficiency Notices were received and evaluated and the Claims updated, JND called Claimants with still-deficient Claims to provide them with a final opportunity to cure the deficiencies in their Claims.

28. During this calling campaign, when a JND agent spoke with a Claimant, that agent explained to the Claimant that the submitted Claim was still deficient and advised the Claimant of the steps required to cure the deficiency. JND provided assistance to Claimants where possible, depending on the nature of the deficiency. For example, if a Claimant needed additional supporting documentation, JND explained the types of documentation that would render the Claim eligible, and how the Claimant could obtain the necessary documentation. JND also provided some Claimants with direct phone numbers and email addresses so that Claimants could receive continued personalized attention and assistance.

29. If JND could not reach a Claimant to speak one-on-one, JND left a voice message, when possible, requesting a return call. JND explained in the voice message that it was calling to assist the Claimant in remedying outstanding deficiencies in the Claim. JND also reached out to Claimants via email if a valid email address was provided in their Claim submissions.

30. If, in response to a telephone call or email, a Claimant cured the deficiency in the Claim by providing the appropriate information and/or supporting documentation, JND updated the Settlement Database to reflect the change in the status of the Claim.

NO DISPUTED CLAIMS

31. As noted above, Claimants were advised that they had the right to contest JND's administrative determination of deficiencies or ineligibility within twenty (20) days from the date of the Deficiency Notice or Deficiency Email and that they could request that the dispute be submitted to the Court for review. More specifically, Claimants were advised in the Deficiency Notice or Deficiency Email that, if they disputed JND's determination, they had to provide a statement of reasons indicating the grounds for contesting the determination, along with supporting documentation, and if the dispute concerning the Claim could not otherwise be resolved, Plaintiffs' Counsel would thereafter present the request for review to the Court for a final determination.

32. One Claimant contested JND's administrative determinations and requested review by the Court. JND reached out to this Claimant and fully explained JND's administrative determination with respect to their Claim. As a result, the Claimant understood the basis for JND's determination and withdrew the request for Court review. There are now no Claimants who contest JND's administrative determinations and request review by the Court.

LATE BUT OTHERWISE ELIGIBLE CLAIMS

33. Of the Presented Claims, 810 were received or postmarked after the July 2, 2019, Claim submission deadline established by the Court. JND processed all late Claims received through April 30, 2020, and 547 have been found to be otherwise eligible in whole or in part (the "Late But Otherwise Eligible Claims"). JND has not rejected any Claim received through April

30, 2020, solely based on its late submission, and JND believes no delay has resulted from the provisional acceptance of these Late But Otherwise Eligible Claims. To the extent they are eligible but for the fact that they were late, they are recommended for payment.

34. However, there must be a final cut-off date after which no more Claims will be accepted so that there may be a proportional allocation of the Net Settlement Fund and the distribution may be accomplished. Acceptance of additional Claims or responses to Deficiency Notices or Deficiency Emails received during the finalization of the administration and the preparation of this application would necessarily require a delay in the distribution. Accordingly, JND also respectfully requests that this Court order that no received or rejected Claim adjusted after April 30, 2020, be eligible for payment for any reason whatsoever subject only to the provision of paragraph 45(f) of the proposed distribution plan discussed below. If the Court adopts the proposed distribution plan, then, after Plaintiffs' Counsel has determined that further distributions are not cost-effective and before any contribution of the residual funds to charity, if sufficient funds remain to warrant the processing of Claims received after April 30, 2020, these Claims will be processed and, if any would have been eligible if timely received, these Claimants may be paid the distribution amounts, to the extent permitted by the amount of remaining funds, on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks. *See* ¶ 45(f) below. With respect to previously filed Claims that are cured or adjusted after April 30, 2020, such Claims will be reevaluated upon receipt of the adjustment and, to the extent that they are found eligible for a distribution or additional distribution, they will be treated in the same manner as Claims received after April 30, 2020. However, should an adjustment be received that results in a lower Recognized Claim

amount, that adjustment will be made and the Recognized Claim amount will be reduced accordingly prior to a distribution to that Claimant.

QUALITY ASSURANCE

35. An integral part of the claims administration process is the Quality Assurance review. Throughout the administration process, JND's Quality Assurance personnel worked to verify that Claims were processed properly by ensuring that information was entered correctly into the Settlement Database, deficiency and/or rejection message codes were assigned accurately, and deficiency and/or rejection notification letters or emails were sent appropriately. After all Claims were processed, deficiency and/or rejection notification was sent, and Claimants' responses to the deficiency and/or rejection notification were reviewed and processed, JND's Quality Assurance personnel performed additional Quality Assurance reviews. These final Quality Assurance reviews further ensured the correctness and completeness of all Claims processed prior to preparing this affidavit and all JND's final documents in support of distribution of the Net Settlement Fund. As part of the Quality Assurance reviews, JND:

- (a) Verified that all Claim Forms had signatures of authorized individuals;
- (b) Verified that true duplicate Claims were identified, verified, and rejected;
- (c) Verified that persons and entities excluded from the Settlement Class did not file Claims or their Claims were rejected upon review;
- (d) Performed a final Quality Assurance audit of Claims and all supporting documentation to ensure completeness of Claims;
- (e) Determined that all Claimants requiring deficiency and/or rejection letters or emails were sent such notification;
- (f) Performed an audit of deficient Claims;

- (g) Performed additional review of Claims with high Recognized Claim amounts;
- (h) Audited Claims that were designated invalid;
- (i) Audited Claims with a Recognized Claim amount equal to zero;
- (j) Performed other auditing based on Claims completion requirements and the approved calculation specifications based on the Court-approved Plan of Allocation; and
- (k) Re-tested the accuracy of the Recognized Claim amount calculation program.

36. In support of the work described above, JND's computer staff designed and implemented, and the project team tested, the following programs for this administration: (i) data entry screens that store Claim information (including all transactional data included on each Claim) and attach messages and, where necessary, text to denote conditions existing within the Claim; (ii) programs to load and analyze transactional data submitted electronically for all Electronic Claims; (iii) a program to compare the claimed transaction prices against the reported market prices to confirm that the claimed transactions were within an acceptable range of the reported market prices; (iv) a calculation program to analyze the transactional data for all Claims, and calculate each Claimant's Recognized Claim based on the Court-approved Plan of Allocation; and (v) programs to generate various reports throughout and at the conclusion of the administration, including lists of all eligible and ineligible Claims.

37. JND also used a variety of fraud protection controls throughout the administration process to identify potential fraudulent Claims. Duplicate Claim searches, high value reviews,

spot reviews, and other standard audit reports that examined the information in a variety of ways were used during the Claim review process.

38. As part of its due diligence in processing the Claims, JND reviewed and compared the entire Settlement Database against the “watch list” of known questionable filers that JND has developed throughout its years of experiences as a claims administrator. JND has worked closely with law enforcement to update that watch list with the latest information available. JND performs searches based on names, aliases, addresses, and city/zip codes. In addition, JND’s claim processors are trained to identify any potentially inauthentic documentation when processing Claims, including Claims submitted by Claimants not previously captured in the “watch list.” Processors are instructed to message code any Claim that matches to a record on the “watch list” and escalate them to management for review. JND’s Fraud Protection procedures identified no potentially fraudulent Claims that would require further review and verification.

RECOMMENDATIONS FOR APPROVAL AND REJECTION

39. As noted above, the number of Claims on this motion is 9,852.

Timely Submitted and Valid Claims

40. A total of 9,042 Claims were received or postmarked on or before the Court-approved Claim submission deadline of July 2, 2019, of which 3,754 were determined by JND to be eligible and are recommended for approval (the “Timely Eligible Claims”). The total Recognized Claim amount for the Timely Eligible Claims is \$6,769,377,850.69.

Late But Otherwise Eligible Claims

41. A total of 810 Claims were received or postmarked after the Court-approved Claim submission deadline of July 2, 2019, but received on or before April 30, 2020. Of those, 547 were determined by JND to be otherwise eligible and are recommended for approval (the “Late But

Otherwise Eligible Claims”). The total Recognized Claim amount for the Late But Otherwise Eligible Claims is \$1,336,808,489.83.

Rejected Claims

42. After the responses to Deficiency Letters and Deficiency Emails were processed, a total of 5,551 Claims remain recommended for rejection by the Court (the “Rejected Claims”) for the following reasons:

- (a) 2,038 Claim Did Not Result in a Recognized Claim;
- (b) 96 Claim Did Not Fit Definition of the Class;
- (c) 3,239 Deficient Claim Never Cured;
- (d) 116 Duplicate Claim; and
- (e) 62 Claim Withdrawn.

Lists of All Presented Claims

43. Attached hereto as Exhibits D through F are listings of all the Presented Claims:

- (a) Exhibit D lists the Timely Eligible Claims and shows each Claimant’s Recognized Claim;
- (b) Exhibit E lists the Late But Otherwise Eligible Claims and shows each Claimant’s Recognized Claim; and
- (c) Exhibit F lists the Rejected Claims and the reasons for rejection.

FEES AND DISBURSEMENTS

44. JND has agreed to be the Claims Administration in exchange for payment of its fees and out-of- pocket expenses. Nevertheless, JND has done its best to keep the cost as low as possible considering the very high claims filing rate in this case. Attached as Exhibit G are copies of all JND invoices for this matter. JND’s total fees and expenses for this matter through May 15,

2020, are \$408,837.28. The brokerage firms and nominees charged JND another \$38,999.62 for their work. To date, JND has been reimbursed in the amount of \$327,791.98. JND respectfully requests payment of \$120,044.92 for unreimbursed fees, expenses and broker fees, and \$18,449.31 in anticipation of the work that will be performed in conjunction with the initial distribution.²

DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

45. Should the Court concur with JND's determinations concerning the provisionally accepted and rejected Claims, including the Late But Otherwise Eligible Claims, JND recommends the following distribution plan (the "Distribution Plan"):

(a) JND will conduct an initial distribution (the "Initial Distribution") of the Net Settlement Fund, after deducting all payments approved by the Court, and after payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees while maintaining a 5% reserve to address any tax liability and claims administration-related contingencies that may arise, as follows:

- (1) JND will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. JND will calculate each Authorized Claimant's *pro rata* share of the Net Settlement Fund based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants.
- (2) JND will eliminate from the Initial Distribution any Authorized

² Should the estimate of fees and expenses to conduct the initial distribution of the Net Settlement Fund exceed the actual cost to conduct the distribution, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants.

Claimant whose *pro rata* share calculates to less than a *de minimis* amount of \$10.00. In light of the costs and expenses associated with distribution of *de minimis* amounts, these Claimants will not receive payment from the Net Settlement Fund, and JND will send notifications to them advising them of that fact.

- (3) After eliminating Claimants who would have received less than the *de minimis* amount of \$10.00, JND will recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more pursuant to the calculations described in subparagraph (a)(1) above. This *pro rata* share is the Authorized Claimant's "Distribution Amount."
- (4) Authorized Claimants whose Distribution Amount calculates to less than \$100.00 pursuant to subparagraph (a)(3) above will be paid their full Distribution Amount in the Initial Distribution ("Claims Paid in Full"). These Authorized Claimants will get no additional funds in subsequent distributions.
- (5) After deducting the payments to the Claims Paid in Full, 95% of the remaining balance of the Net Settlement Fund will be distributed to Authorized Claimants whose Distribution Amount calculates to \$10.00 or more pursuant to subparagraph (a)(3) above, on a *pro rata* basis based on their Distribution Amounts. The remaining 5% of the Net Settlement Fund will be held in reserve (the "Reserve") to address any tax liability and claims administration-related

contingencies that may arise. To the extent the Reserve is not depleted, the remainder will be distributed in the “Second Distribution” described in subparagraph (d) below.

(b) To encourage Authorized Claimants to deposit their payments promptly, all distribution checks will bear a notation: “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY DATE 90 DAYS AFTER ISSUE DATE.”³

(c) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions set forth in footnote 3 will irrevocably forfeit all recovery from the Settlement. The funds allocated to all such stale-dated checks will be available to be redistributed to other Authorized Claimants in the second distribution. Similarly, Authorized Claimants who do not cash their second or subsequent distribution checks (should such distributions occur) within the time allotted or on the conditions set

³ For Authorized Claimants whose checks are returned as undeliverable, JND will endeavor to locate new addresses by running the undeliverable addresses through address-lookup services. Where a new address is located, JND will update the Settlement Database accordingly and reissue a distribution check to the Authorized Claimant at the new address. In the event an Authorized Claimant loses or damages a check, or otherwise requires a new check, JND will issue replacements. Distribution reissues will be undertaken only upon written instructions from the Authorized Claimant, provided that the Authorized Claimant returns the previous check where appropriate. For all checks, JND will void the initial payment prior to reissuing a payment. In order not to delay further distributions to Authorized Claimants who have timely cashed their checks, JND’s outreach program, described in the preceding sentences, shall end 30 days after the initial void date. Authorized Claimants will be informed that, if they do not cash their Initial Distribution checks within 90 days of the mail date, or they do not cash check reissues within 30 days of the mailing of such reissued check, their check will lapse, their entitlement to recovery will be irrevocably forfeited, and the funds will be reallocated to other Authorized Claimants. Reissue requests for lost or damaged checks will be granted after the void date on the checks as long as the request for the reissue is received no later than 45 days prior to the next planned distribution. Requests for reissued checks in connection with any subsequent distributions will be handled in the same manner.

forth in footnote 3 will irrevocably forfeit any further recovery from the Net Settlement Fund.

(d) After JND has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, which efforts shall consist of the follow-up efforts described in footnote 3, but not earlier than one year after the Initial Distribution, JND will, after consulting with Plaintiffs' Counsel, conduct a second distribution of the Net Settlement Fund (the "Second Distribution"). Any amounts remaining in the Net Settlement Fund after the Initial Distribution (including from the Reserve and the funds allocated for all void stale-dated checks), after deducting JND's unpaid fees and expenses incurred in connection with administering the Settlement (including JND's estimated costs of the Second Distribution), and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants in the Initial Distribution who cashed their first distribution check and who would receive at least \$10.00 from such distribution based on their *pro rata* share of the remaining funds. Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter in six-month intervals until Plaintiffs' Counsel, in consultation with JND, determines that further distribution is not cost-effective.

(e) At such time as Plaintiffs' Counsel, in consultation with JND, determines that further distribution of the funds remaining in the Net Settlement Fund is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after April 30, 2020, such Claims will be processed, and any such Claims that are otherwise valid as well as any earlier received Claims for which an adjustment was received after April 30,

2020, which resulted in an increased Recognized Claim, will be paid in accordance with subparagraph (f) below. If any funds remain in the Net Settlement Fund after payment of such late or late-adjusted Claims, the remaining balance of the Net Settlement Fund, after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to appropriate non-profit organization(s) designated by Plaintiffs' Counsel and approved by the Court.

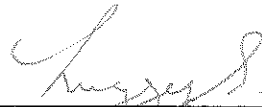
(f) No new Claims may be accepted after April 30, 2020, and no further adjustments to Claims received on or before April 30, 2020 that would result in an increased Recognized Claim amount may be made for any reason after April 30, 2020, subject to the following exception. If Claims are received or modified after April 30, 2020, that would have been eligible for payment or additional payment under the Plan of Allocation if timely received, then, at the time that Plaintiffs' Counsel, in consultation with JND, determines that a redistribution is not cost-effective as provided in subparagraph (e) above, and after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, such Claimants, at the discretion of Plaintiffs' Counsel, may be paid the distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks to the extent possible.

CONCLUSION

46. JND respectfully requests that the Court enter an Order approving its administrative determinations accepting and rejecting the Claims submitted herein and approving the proposed Distribution Plan. JND further respectfully submits that its fees and expenses, as reflected on the invoices attached hereto as Exhibit G, should be approved for payment from the Settlement Fund.

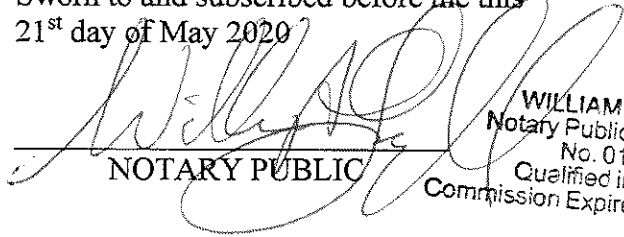
I affirm under penalty of perjury that the foregoing is true and correct.

Executed in Jericho, New York, on May 21, 2020.



Luiggy Segura

Sworn to and subscribed before me this
21st day of May 2020



NOTARY PUBLIC

WILLIAM A. O'LOUGHLIN
Notary Public, State of New York
No. 01OL5084336
Qualified in Suffolk County
Commission Expires September 2, 2021

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

BLACKROCK CORE BOND PORTFOLIO,
et al.,

Plaintiffs,

-against-

WELLS FARGO BANK, NATIONAL
ASSOCIATION,

Defendant.

Index No. 656587/2016

Justice Andrew Borrok (Part 53)

[PROPOSED] ORDER APPROVING DISTRIBUTION PLAN

WHEREAS, Plaintiffs moved this Court for an order approving a distribution plan for the Net Settlement Fund in the above-captioned class action (the “Action”). Having reviewed and considered all the materials and arguments submitted in support of the motion, including the Memorandum in Support of Plaintiffs’ Unopposed Motion for Approval of Distribution Plan and the Affidavit of Luiggy Segura in Support of Plaintiffs’ Unopposed Motion for Approval of Distribution Plan (the “Segura Affidavit”),

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated November 9, 2018 [NYSCEF No. 149] (the “Stipulation”), and the Segura Affidavit, and all terms used in this Order shall have the same meanings as defined in the Stipulation or Segura Affidavit.

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

3. Plaintiffs' plan for distribution of the Net Settlement Fund to Authorized Claimants is **APPROVED**. Accordingly:

(a) The administrative recommendations of the Court-approved Claims Administrator, JND Legal Administration ("JND"), to accept the Timely Eligible Claims stated in Exhibit D to the Segura Affidavit and the Late But Otherwise Eligible Claims stated in Exhibit E to the Segura Affidavit, are adopted;

(b) The Claims Administrator's administrative recommendations to reject wholly ineligible Claims, as stated in Exhibit F to the Segura Affidavit are adopted;

(c) JND is directed to conduct an Initial Distribution of the Net Settlement Fund, after deducting all payments previously allowed and the payments approved by this Order, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, while maintaining a 5% reserve from the Net Settlement Fund to address any tax liability and claims administration-related contingencies that may arise, as stated in paragraph 45(a) of the Segura Affidavit (the "Distribution"). Specifically, as stated in paragraph 45(a) of the Segura Affidavit: (1) JND will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. JND will calculate each Authorized Claimant's *pro rata* share of the Net Settlement Fund as stated in subparagraph 45(a)(1) of the Segura Affidavit; (2) JND will calculate the total amount each Authorized Claimant would recover in accordance with the calculations stated in subparagraph (c)(1) above and then it will eliminate from the distribution any Authorized Claimant whose total *pro rata* share of the Net Settlement Fund is less than the *de minimis* amount of \$10.00 for Court-approved Authorized Claimants to receive a payment, who will be so notified by JND; (3) JND will

calculate the *pro rata* shares of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more (the “Distribution Amount”); (4) Authorized Claimants whose Distribution Amount calculates to less than \$100.00 under subparagraph (c)(3) above will be paid their full Distribution Amount in the Initial Distribution (“Claims Paid in Full”). These Authorized Claimants will get no additional funds in subsequent distributions; (5) 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$10.00 or more under subparagraph (c)(3) above. The remaining 5% of the Net Settlement Fund will be held in reserve (the “Reserve”) to address any tax liability and claims administration-related contingencies that may arise. To the extent the Reserve is not depleted, the remainder will be distributed in the “Second Distribution” described in subparagraph (f) below;

(d) In order to encourage Authorized Claimants to cash their checks promptly, all distribution checks will bear the following notation: “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” Plaintiffs’ Counsel and JND are authorized to take appropriate action to locate and contact Authorized Claimants who have not cashed their distribution checks within said time as detailed in paragraph 45(b) footnote 3 of the Segura Affidavit;

(e) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions stated in paragraph 45(b) footnote 3 of the Segura Affidavit will irrevocably forfeit all recovery from the Settlement, and the funds allocated to all such stale-dated checks will be available to be distributed to other Authorized Claimants in the second distribution. Similarly, Authorized Claimants who do

not cash their second or subsequent distributions (should such distributions occur) within the time allotted or on the conditions stated in paragraph 45(b) footnote 3 of the Segura Affidavit will irrevocably forfeit any further recovery from the Net Settlement Fund;

(f) After JND has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks (provided in paragraph 45(b) footnote 3 of the Segura Affidavit), but not earlier than one (1) year after the Initial Distribution, JND will, after consulting with Plaintiffs' Counsel, conduct a second distribution (the "Second Distribution"), in which any amount remaining in the Net Settlement Fund after the Initial Distribution (including from the Reserve and the funds for all void stale-dated checks), after deducting JND's unpaid fees and expenses incurred in administering the Settlement (including JND's estimated costs of the Second Distribution), and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants who cashed their Initial Distribution check and are entitled to receive at least \$10.00, the *de minimis* amount for Authorized Claimants to receive payment from the Second Distribution based on their *pro rata* share of the remaining funds. Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter in six-month intervals until Plaintiffs' Counsel, in consultation with JND, determines that further distribution is not cost-effective;

(g) When Plaintiffs' Counsel, in consultation with JND, determines that further distribution of the funds remaining in the Net Settlement Fund is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after April 30, 2020, those Claims will be processed, and any otherwise valid Claims received after April 30,

2020, as well as any earlier-received Claims for which an adjustment was received after April 30, 2020, and resulted in an increased Recognized Claim amount, will be paid in accordance with subparagraph (h) below. If any funds remain in the Net Settlement Fund after payment of these late or late-adjusted Claims, the remaining balance of the Net Settlement Fund, after payment of any unpaid fees or expenses incurred in administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to appropriate non-profit organization(s) designated by Plaintiffs' Counsel and approved by the Court;

(h) No new Claims may be accepted after April 30, 2020, and no further adjustments to Claims received on or before April 30, 2020, that would result in an increased Recognized Claim amount may be made for any reason after April 30, 2020, subject to the following exception. If Claims are received or modified after April 30, 2020, that would have been eligible for payment or additional payment under the Plan of Allocation if timely received, then, at the time that Plaintiffs' Counsel, in consultation with JND, determines a distribution is not cost-effective as provided in subparagraph (g) above, and after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, these Claimants, at the discretion of Plaintiffs' Counsel, may be paid their distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks to the extent possible;

(i) Provided that they comply with their obligations in this Order, all persons involved in the review, verification, calculation, tabulation, or any other aspect of the

processing of the Claims submitted, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are hereby released and discharged from any and all claims arising out of that involvement, and all Settlement Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, are hereby barred from making any further claims against the Net Settlement Fund, Plaintiffs, Plaintiffs' Counsel, the Claims Administrator, the Escrow Agent, or any other agent retained by Plaintiffs or Plaintiffs' Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants;

(j) All of JND's fees and expenses incurred in the administration of the Settlement and estimated to be incurred in connection with the Distribution of the Net Settlement Fund, as stated in the invoices attached as Exhibit G to the Segura Affidavit, are approved, and Plaintiffs' Counsel is directed to pay the outstanding balance of \$138,494.23 out of the Settlement Fund to JND.

4. This Court retains jurisdiction to consider any further applications concerning the administration of the Settlement and any other and further relief that this Court deems appropriate.

IT IS SO ORDERED this _____ day of _____ 2020.

Hon. Andrew Borrok