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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

IN RE COUNTRYWIDE FINANCIAL
CORPORATION SECURITIES
LITIGATION

This Document Relates to: All Actions

Lead Case No.
CV 07-05295 MRP (MANx)

**ORDER APPROVING PLAN
FOR FINAL DISTRIBUTION
OF NET SETTLEMENT FUND**

1 **WHEREAS:**

2 A. As of June 29, 2010, Lead Plaintiff Thomas P. DiNapoli, Comptroller
3 of the State of New York, as Administrative Head of the New York State and
4 Local Retirement Systems and as sole Trustee of the New York State Common
5 Retirement Fund; Lead Plaintiffs New York City Employees' Retirement System,
6 New York City Police Pension Fund, New York City Fire Department Pension
7 Fund, New York City Board of Education Retirement System, and Teachers'
8 Retirement System of the City of New York; and Plaintiff Barry Brahn, on behalf
9 of the certified Class (collectively with Lead Plaintiffs, "Plaintiffs") entered into an
10 Amended Stipulation and Agreement of Settlement (the "Settlement Agreement,"
11 ECF No. 841) with all Defendants in this Action;

12 B. The Settlement Agreement was subsequently amended pursuant to the
13 First Amendment to Amended Stipulation and Agreement of Settlement, dated as
14 of January 4, 2011 (the "Amendment," ECF No. 1015);

15 C. The Court approved the Settlement of the Action in its Final Judgment
16 and Order of Dismissal with Prejudice (ECF No. 1063), and approved the Plan of
17 Allocation of the Net Settlement Fund in its Order Approving Plan of Allocation of
18 Net Settlement Fund as Modified (ECF No. 1061), both issued on March 4, 2011;

19 D. On November 8, 2012, the Court issued an Order Approving
20 Administrative Determinations of Proofs of Claim, Authorizing Initial Distribution
21 of Net Settlement Fund, and Allowing Payment of Claims Administrator's Fees
22 and Expenses (the "Initial Distribution Order," ECF No. 1097);

23 E. The Initial Distribution Order, among other relief, authorized an initial
24 distribution of the Net Settlement Fund to Authorized Claimants (including Late
25 Claimants) and the establishment of a \$30 million reserve to address, among other
26 things, the Proofs of Claim of the Countrywide Financial Corporation 401(k)
27 Savings & Investment Plan ("401(k) Plan" or "Plan") and other potential Class
28 members that were held in abeyance during the pendency of the 401(k) Plan's

1 appeal of the Court's Order Approving Plan of Allocation of Net Settlement Fund
2 as Modified (the "POA Order," ECF No. 1061) to the United States Court of
3 Appeals for the Ninth Circuit;

4 F. Beginning on December 26, 2012, Rust Consulting, Inc. ("Rust"), the
5 Court-authorized Claims Administrator, conducted an initial distribution of the Net
6 Settlement Fund to Authorized Claimants pursuant to and in accordance with the
7 Initial Distribution Order (the "Initial Distribution");

8 G. On May 28, 2013, the Court of Appeals issued an opinion affirming
9 the POA Order, *Pappas v. The Bank of America 401(k) Plan for Legacy*
10 *Companies, as a Successor to the Countrywide Financial Corp. 401(k) Savings &*
11 *Investment Plan*, 526 F. App'x 785 (9th Cir. 2013);

12 H. Plaintiffs, by motion filed on November 25, 2013, and on notice to
13 Defendants, the 401(k) Plan, and all Disputed Claimants Held in Abeyance as
14 defined in the motion, have sought an Order approving a proposed plan for the
15 further and final distribution of all monies remaining in the Net Settlement Fund
16 established by the Settlement in this action, including the \$30 million reserve; and

17 I. The Court has duly considered Plaintiffs' motion, the declarations
18 with annexed exhibits, the memorandum of law submitted in support thereof, the
19 request for judicial notice submitted in support thereof, and all of the submissions
20 and arguments presented, including any submissions and arguments in opposition;

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

23 1. This Order incorporates by reference the definitions in the Settlement
24 Agreement and the Amendment, and all capitalized terms used herein shall have
25 the same meanings as set forth therein.

26 2. The motion is granted in its entirety, and the Court approves the
27 administrative determinations of the Claims Administrator accepting and rejecting
28 the Claims Held in Abeyance, including the Proofs of Claim submitted by the

1 401(k) Plan. The plan for final distribution of the Net Settlement Fund set forth in
2 the Declaration of Eric S. Schachter of Rust Consulting, Inc. Regarding Final
3 Distribution Plan, filed on November 25, 2013 (the “Schachter Declaration”), is
4 approved.

5 3. The 401(k) Plan shall be eligible to participate in the Net Settlement
6 Fund only to the extent that the 401(k) Plan itself, at the “trust” level, purchased
7 shares of Countrywide common stock in the open market during the Class Period.
8 Shares of stock acquired by 401(k) Plan participants directly from Countrywide or
9 through intra-Plan trades during the Class Period are not included in the Common
10 Stock Subclass because they were not purchased in the open market during the
11 Class Period. It is not enough that those securities were purchased or acquired
12 pursuant to a registration statement. The Court further concludes that such shares
13 of stock acquired by 401(k) Plan participants directly from Countrywide or through
14 intra-Plan trades should not be treated the same as common stock purchased in the
15 open market. *See Pappas*, 529 F. App’x at 789-90. Accordingly, transactions in
16 shares of stock issued pursuant or traceable to Countrywide’s May 11, 2007 Form
17 S-8 registration statement, and transactions in unitized interests in the Company
18 Stock Fund by 401(k) Plan participants, are ineligible and noncompensable under
19 the terms of the Settlement and the Plan of Allocation of the Net Settlement Fund.

20 4. The balance of the Net Settlement Fund, including the reserve, shall
21 be further distributed to (a) the Authorized Claimants listed in Exhibits N and O to
22 the Declaration of Eric J. Miller of Rust Consulting, Inc. Regarding Processing of
23 Claim Forms and Calculation of Authorized Claimants’ Recognized Claims, dated
24 October 5, 2012 (ECF Nos. 1093-14 and 1093-15), *provided, however*, that only
25 those Authorized Claimants that cashed their checks or otherwise accepted
26 payments made in the Initial Distribution shall be eligible to receive further
27 distributions from the Net Settlement Fund; and (b) the Eligible Claims Held in
28 Abeyance (including the accepted claims of the 401(k) Plan) listed in Exhibit C to

1 the Schachter Declaration, according to the determinations of the Claims
2 Administrator and consistent with the Settlement Agreement, the Amendment, the
3 Plan of Allocation of the Net Settlement Fund previously approved by the Court,
4 and the rulings of this Court and the Court of Appeals.

5 5. In the second distribution of the Net Settlement Fund authorized by
6 this Order, the Eligible Claims Held in Abeyance (including the accepted claims of
7 the 401(k) Plan) shall receive a “Catch-Up” Payment to put them on an equal
8 economic footing as the Authorized Claimants that received payments in the Initial
9 Distribution.

10 6. Proofs of Claim rejected or otherwise found to be ineligible by the
11 Claims Administrator, including the Ineligible Claims Held in Abeyance and
12 Disputed Claims Held in Abeyance listed in Exhibit A to the Schachter
13 Declaration, are hereby rejected.

14 7. All Proofs of Claim that were or are received on or after October 1,
15 2012 are hereby rejected as untimely and shall not be accepted for any reason.

16 8. Following the second distribution of the Net Settlement Fund,
17 Plaintiffs and the Claims Administrator are authorized to carry out further
18 distributions of the balance of the Net Settlement Fund to Authorized Claimants
19 and those Eligible Claimants Held in Abeyance that have cashed their checks or
20 otherwise accepted distribution payments, as many times as is necessary, in a
21 manner consistent with the Plan of Allocation and the rulings of this Court and the
22 Court of Appeals, until each Authorized Claimant and Eligible Claim Held in
23 Abeyance has received its Recognized Claim (but no greater than its Recognized
24 Claim) as defined by the Plan of Allocation. If Plaintiffs determine that it is not
25 cost-effective to conduct such further distribution, Plaintiffs shall cause the
26 residual balance of the Net Settlement Fund to be finally and promptly disposed of
27 pursuant to Paragraph 21(h) of the Settlement Agreement.

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9. Rust shall be paid its outstanding fees and expenses incurred after the entry of the Initial Distribution Order and in connection with carrying out the second distribution, in the total amount of \$270,379.68.

10. Three (3) years after completing the final distribution of the Net Settlement Fund, Rust may destroy all Proof of Claim forms together with any hard-copy or electronic documents and data.

11. The Court retains jurisdiction to consider any further applications concerning the administration of the Settlement, and such other and further relief as the Court deems appropriate.

Dated: March 7, 2014



HON. MARIANA R. PFAELZER
UNITED STATES DISTRICT JUDGE