

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE FOREIGN EXCHANGE  
BENCHMARK RATES ANTITRUST  
LITIGATION

No. 1:13-cv-07789-LGS

**DECLARATION OF KENNETH R. FEINBERG  
IN SUPPORT OF CLASS PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL  
OF SETTLEMENT AGREEMENTS WITH BANK OF AMERICA, BARCLAYS, BNP  
PARIBAS, CITIGROUP, GOLDMAN SACHS, HSBC, JPMORGAN, RBS, AND UBS**

I, KENNETH R. FEINBERG, pursuant to 28 U.S.C. §1746, declare as follows:

1. I am a person of the full age of majority and, if called to testify, am competent to testify as to the facts set forth herein.

2. I am the agreed-upon Mediator and/or third-party Negotiator in the above-captioned matter involving Class Plaintiffs Aureus Currency Fund, L.P.; the City of Philadelphia, Board of Pensions and Retirement; Employees' Retirement System of the Government of the Virgin Islands; Employees' Retirement System of Puerto Rico Electric Power Authority; Fresno County Employees' Retirement Association; Haverhill Retirement System; Oklahoma Firefighters Pension and Retirement System; State-Boston Retirement System; Syena Global Emerging Markets Fund, LP; Systrax Corporation; Tiberius OC Fund, Ltd.; United Food and Commercial Workers Union and Participating Food Industry Employers Tri-State Pension Fund; Value Recovery Fund L.L.C. (collectively, "Direct Class Plaintiffs"), J. Paul Antonello, Marc G. Federighi, Thomas Gramatis, Doug Harvey, Izee Trading Company, John Kerstein, Michael Melissinos, Mark Miller, Robert Miller, Richard Preschern d/b/a Preschern Trading, Peter Rives, Michael J. Smith, Jeffrey Sterk, and Kimberly Sterk (collectively, "Exchange-Only Class Plaintiffs" and, together with Direct Class Plaintiffs, "Class Plaintiffs") and Defendants Bank of

America Corporation, Bank of America, N.A., and Merrill Lynch, Pierce, Fenner & Smith Incorporated (collectively, “Bank of America”); Barclays Bank PLC and Barclays Capital Inc. (collectively, “Barclays”); BNP Paribas Group, BNP Paribas North America Inc., BNP Paribas Securities Corp., and BNP Prime Brokerage, Inc. (collectively, “BNP Paribas”); Citigroup Inc., Citibank, N.A., Citicorp, and Citigroup Global Markets Inc. (collectively, “Citigroup”); The Goldman Sachs Group, Inc. and Goldman, Sachs & Co. (collectively, “Goldman Sachs”); HSBC Holdings PLC, HSBC Bank PLC, HSBC North America Holdings, Inc., HSBC Bank USA, N.A., and HSBC Securities (USA), Inc. (collectively, “HSBC”); JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively, “JPMorgan”); The Royal Bank of Scotland Group plc and RBS Securities Inc. (collectively, “RBS”); and UBS AG, UBS Group AG, and UBS Securities LLC (collectively, “UBS”) (together, the “Settling Defendants”). I submit this Declaration in connection with the concurrently filed Motion for Preliminary Approval of Settlement Agreements with Bank of America, Barclays, BNP Paribas, Citigroup, Goldman Sachs, HSBC, JPMorgan, RBS, and UBS.

3. I have acted as an independent, neutral mediator for more than 30 years, retained by private parties and federal and state courts, to design and administer mediation procedures aimed at resolving thousands of complex disputes. I have acted as a mediator in a wide range of disputes, including mass torts, insurance coverage, contracts, and securities and antitrust litigation. In some of these disputes, as in the above-captioned matter, I have been retained by the litigants to act as the neutral mediator. In other disputes, I have been appointed by the court to serve as the mediator. *See, e.g., In Re Agent Orange*, 611 F. Supp. 1396 (1985). And, after the September 11 terrorist attacks, I was appointed by the Attorney General of the United States to act as the Special

Master/Administrator of The Federal September 11 Victim Compensation Fund of 2001. *See* 49 U.S.C. §40101; 28 C.P.R. §§104.2, *et seq.* (2003).

4. I have also been appointed by federal and state judges to act as the independent neutral Distribution Agent in administering class action settlements in complex commercial and tort cases, including the allocation and distribution of class settlement proceeds to eligible claimants. *See, e.g., Sec. and Exch. Comm'n v. Maurice R. Greenberg and Howard I. Smith*, 09-Civ.-6939 (S.D.N.Y. 2011) (Preska, J.); *In Re Agent Orange*, 611 F. Supp. 1396 (1985); *United States v. Computer Associates Int'l, Inc.*, 04-cr-837 (E.D.N.Y. 2007); *cf. The Federal September 11 Victim Compensation Fund of 2001*, 49 U.S.C. § 40104; 28 C.P.R. §§ 10-4.2, *et seq.* (2003); The Gulf Coast Claims Facility;<sup>1</sup> GM Ignition Compensation Claims Resolution Facility, Final Protocol for Compensation of Certain Death and Physical Injury Claims Pertaining to the GM Ignition Switch Recall (June 30, 2014).

5. A copy of my curriculum vitae is attached hereto as Exhibit A.

6. Because this declaration is submitted in support of the Settlement Agreements, it is inadmissible in any subsequent proceedings. In the event the Settlement Agreements do not receive the Court's final approval, this declaration and the statements contained herein are without prejudice to the parties' respective positions on the merits of this Action.

## **I. THE MEDIATIONS AND RESULTING SETTLEMENTS**

7. Prior to being retained by counsel for Plaintiffs ("Class Lead Counsel") and counsel for the Settling Defendants, I had no knowledge or understanding of the facts of the dispute. During the course of the mediations, I acted as an independent, neutral mediator encouraging each

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<sup>1</sup> *See* <https://www.whitehouse.gov/blog/2010/06/16/important-step-towards-making-people-gulf-coast-whole-again> ("BP and the Administration agreed to appoint Ken Feinberg, who administered the claims process for victims of 9/11, to run the independent claims process")

side separately, and both sides together, to resolve their differences through arm's-length negotiation. I supervised the entire process of these mediations and negotiations, which resulted in Plaintiffs and the Settling Defendants reaching separate settlement stipulations: the Stipulation and Agreement of Settlement with Bank of America Corporation, Bank of America, N.A., and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Bank of America Stipulation"); the Stipulation and Agreement of Settlement with Barclays Bank PLC and Barclays Capital Inc. ("Barclays Stipulation"); the Stipulation and Agreement of Settlement with BNP Paribas Group, BNP Paribas North America Inc., BNP Paribas Securities Corp., and BNP Prime Brokerage, Inc. ("BNP Paribas Stipulation"); the Stipulation and Agreement of Settlement with Citigroup Inc., Citibank, N.A., Citicorp, and Citigroup Global Markets Inc. ("Citigroup Stipulation"); the Stipulation and Agreement of Settlement with The Goldman Sachs Group, Inc. and Goldman, Sachs & Co. ("Goldman Sachs Stipulation"); the Stipulation and Agreement of Settlement with HSBC Holdings PLC, HSBC Bank PLC, HSBC North America Holdings Inc., HSBC Bank USA, N.A., and HSBC Securities (USA) Inc. ("HSBC Stipulation"); the Stipulation and Amended Agreement of Settlement with JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. ("JPM Amended Stipulation"); the Stipulation and Agreement of Settlement with The Royal Bank of Scotland Group plc, The Royal Bank of Scotland plc, and RBS Securities Inc. ("RBS Stipulation"); and the Stipulation and Amended Agreement of Settlement with UBS AG, UBS Group AG, and UBS Securities LLC ("UBS Amended Stipulation") (collectively, the "Settlement Agreements").

8. Beginning in late 2014, I was asked by Class Lead Counsel and thereafter by the Settling Defendants to serve as the sole Mediator in an agreed-upon bilateral, voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-

captioned matter between Plaintiffs and the Settling Defendants. I agreed to serve as Mediator with the agreement of Class Lead Counsel and counsel for the Settling Defendants.

9. During the course of the mediations, I met with representatives of both sides, heard from each side concerning background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

10. During the course of these mediations, I continuously reiterated that each side confronted substantial risk if the litigation went forward and that any settlement entered into with government regulators would not guarantee success for either side in private class action litigation.

11. Class Lead Counsel and counsel for the Settling Defendants, with the aid of myself as Mediator, eventually reached settlements on behalf of class members who engaged in foreign exchange ("FX") transactions directly with Defendants (the "Direct Settlement Class"). Class Lead Counsel and counsel for the Settling Defendants, with the aid of myself as Mediator, also reached settlements on behalf of class members who only entered into FX transactions on exchanges (the "Exchange-Only Settlement Class").

12. In this declaration, I refer to the Direct Settlement Class and Exchange-Only Settlement Class together as the "Settlement Classes."

13. The parties, under my direction, negotiated the settlement amounts with respect to the Direct Settlement Class and Exchange-Only Settlement Class separately. These negotiations were guided by, among other things, the approximate market shares of the Defendants, the relative volume of transactions occurring directly with Defendants (*i.e.*, over the counter) and on exchanges with volume trading on exchanges representing a single digit percentage of the overall

FX market during the class period, and the number of members of the Settlement Classes that traded over the counter and on exchanges. The negotiations also reflected that both Settlement Classes would receive the benefit of substantial cooperation as outlined below.

14. Class Lead Counsel and counsel for the Settling Defendants, through and as result of mediations overseen by me, began entering into settlement agreements in January 2015. To date, the following settlements have been reached through and as a result of mediation overseen by me:

<b>SETTLING DEFENDANT</b>	<b>EXECUTION DATE OF SETTLEMENT<sup>2</sup></b>	<b>SETTLEMENT CLASS</b>	<b>AMOUNT</b>
Bank of America	10/1/15	Direct Settlement Class	\$180,000,000
		Exchange-Only Settlement Class	\$7,500,000
Barclays	9/30/15	Direct Settlement Class	\$375,000,000
		Exchange-Only Settlement Class	\$9,000,000
BNP Paribas	10/1/15	Direct Settlement Class	\$110,000,000
		Exchange-Only Settlement Class	\$5,000,000
Citigroup	10/1/15	Direct Settlement Class	\$394,000,000
		Exchange-Only Settlement Class	\$8,000,000
Goldman Sachs	10/1/15	Direct Settlement Class	\$129,500,000
		Exchange-Only Settlement Class	\$5,000,000
HSBC	10/1/15	Direct Settlement Class	\$279,000,000
		Exchange-Only Settlement Class	\$6,000,000
JPMorgan	1/5/15, amended 10/1/15	Direct Settlement Class	\$99,000,000
		Exchange-Only Settlement Class	\$5,000,000
RBS	10/2/15	Direct Settlement Class	\$247,000,000
		Exchange-Only Settlement Class	\$8,000,000
UBS	3/6/15, amended 10/5/15	Direct Settlement Class	\$135,000,000
		Exchange-Only Settlement Class	\$6,075,000

<sup>2</sup> Although the settlement amounts were negotiated separately for each respective Settlement Class, the Stipulations of Settlement include each of the Settlement Classes within one document.

Direct Settlement Class Total	\$1,948,500,000
Exchange-Only Settlement Class Total	\$59,575,000
Notice and Administration Total <sup>3</sup>	\$1,000,000
Total Settlements	\$2,009,075,000

15. In addition to providing monetary compensation to members of the Settlement Classes, the settlements provide for the Settling Defendants to provide cooperation to the Plaintiffs in the above-captioned action. This cooperation is triggered upon execution with respect to attorney proffers and transaction data. Additional cooperation in the form of, among other things, witness interviews, production of documents previously produced to governmental bodies, and depositions is triggered upon preliminary approval. Settling Defendants' cooperation obligations are continuing until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval. The terms of the cooperation were the subject of arm's-length negotiations between sophisticated counsel.

16. Each of the Settlement Agreements excludes claims arising from transactions executed solely outside the United States and arising under foreign law belonging to any Releasing Party or Person that is domiciled outside of the United States, as well as claims arising from what the parties have termed "last look" conduct.

17. The specific facts of the mediations and the resulting settlements are set forth below.

**A. Bank of America**

18. The mediation between Class Lead Counsel and counsel for Bank of America, overseen by me, has resulted in settlements of \$180,000,000 on behalf of the Direct Settlement

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<sup>3</sup> JPM and Goldman Sachs each agreed to also pay \$500,000 for notice and administration costs.

Class and \$7,500,000 on behalf of the Exchange-Only Settlement Class. In addition to the monetary component, Bank of America has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

19. It is my belief that the settlements reached with Bank of America as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter.

20. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

21. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

22. As described below, the settlements on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately negotiated in mediation overseen by myself.

23. In early 2015, I was asked by both Class Lead Counsel and counsel for Bank of America if I would agree to serve as a sole Mediator in an agreed upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and Bank of America. I agreed to do so with the agreement of both sides.



24. Before mediation began, I spoke with counsel for each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

25. The first joint mediation session between Class Lead Counsel and counsel for Bank of America occurred on April 2, 2015 in Washington, DC. During this session, I urged resolution of various issues. Financial terms were also discussed, but no final agreement was reached as to any of the outstanding issues. After this first mediation session, I engaged in frequent telephone conversations and occasional face-to-face meetings with the mediation participants, separately and together, in an effort to help the parties reach a successful mediated settlement. As a result of these telephone conversations, and at my urging and direction, the mediation participants exchanged proposals and engaged in direct negotiations. All outstanding disagreements were eventually resolved.

26. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

27. On April 9, 2015, Class Lead Counsel and counsel for Bank of America executed a term sheet to resolve the above-captioned litigation on behalf of the Direct Settlement Class and Bank of America.

28. Negotiations with respect to the exchange-only settlement continued, resulting in an agreement in principle on the settlement amount of \$7,500,000 on April 23, 2015. A term sheet was circulated on April 30, 2015 and the parties proceeded to negotiate the terms of a settlement

stipulation that would encompass both the Direct Settlement Class and the Exchange-Only Settlement Class.

29. On October 1, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for Bank of America executed the Bank of America Stipulation to resolve the above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and Bank of America.

**B. Barclays**

30. The mediation between Class Lead Counsel and counsel for Barclays, overseen by me, has resulted in settlements of \$375,000,000 on behalf of the Direct Settlement Class and \$9,000,000 on behalf of the Exchange-Only Settlement Class. In addition to the monetary component, Barclays has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

31. It is my belief that the settlements reached with Barclays as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter.

32. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

33. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

34. As described below, the settlements on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately negotiated in mediation overseen by myself.

35. In early 2015, I was asked by both Class Lead Counsel and counsel for Barclays if I would agree to serve as a sole Mediator in an agreed-upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and Barclays. I agreed to do so with the agreement of both sides.

36. Before mediation began, I spoke with representatives from each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

37. The first joint mediation session between Class Lead Counsel and counsel for Barclays occurred on March 4, 2015 in Washington, DC. During this session, I urged resolution of various issues. Following the conclusion of this mediation session, I continued to mediate negotiations between the parties via e-mail and telephone calls. On March 9, 2015, the parties reached agreement in principle on the financial terms of the settlement between Barclays and the Direct Settlement Class. After this mediation session, I engaged in frequent telephone conversations and occasional face-to-face meetings with the mediation participants, separately and

together, in an effort to help the parties reach a successful mediated settlement. As a result of these telephone conversations, and at my urging and direction, the mediation participants exchanged proposed revisions to a settlement agreement and engaged in direct negotiations. All outstanding disagreements were eventually resolved.

38. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

39. On March 31, 2015, Class Lead Counsel and counsel for Barclays executed a term sheet to resolve the above-captioned litigation on behalf of the Direct Settlement Class and Barclays.

40. Negotiations with respect to the exchange-only settlement continued beyond that date. On June 3, 2015, Class Lead Counsel and counsel for Barclays executed a term sheet to resolve the above-captioned litigation on behalf of the Exchange-Only Settlement Class and Barclays.

41. On September 30, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for Barclays executed the Barclays Stipulation to resolve the above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and Barclays.

**C. BNP Paribas**

42. The mediation between Class Lead Counsel and counsel for BNP Paribas, overseen by me, has resulted in settlements of \$110,000,000 on behalf of the Direct Settlement Class and \$5,000,000 on behalf of the Exchange-Only Settlement Class. In addition to the monetary

component, BNP Paribas has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

43. It is my belief that the settlements reached with BNP Paribas as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter.

44. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

45. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

46. In early 2015, I was asked by both Class Lead Counsel and counsel for BNP Paribas if I would agree to serve as a sole Mediator in an agreed upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and BNP Paribas. I agreed to do so with the agreement of both sides.

47. Before mediation began, I spoke with representatives from each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also

discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

48. The first joint mediation session between Class Lead Counsel and counsel for BNP Paribas occurred on May 6, 2015 in Washington, DC. During this session, I urged resolution of various issues. Financial terms were also discussed, but no final agreement was reached as to any of the outstanding issues. After this first mediation session, I engaged in frequent telephone conversations and occasional face-to-face meetings with the mediation participants, separately and together, in an effort to help the parties reach a successful mediated settlement. As a result of these telephone conversations, and at my urging and direction, the mediation participants exchanged proposed revisions to a settlement agreement and engaged in direct negotiations. All outstanding disagreements were eventually resolved, with the parties reaching an agreement in principle on the terms of the Direct Settlement Class and Exchange-Only Settlement Classes' respective settlements by telephone on May 29, 2015.

49. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

50. On June 5, 2015, Class Lead Counsel and counsel for BNP Paribas executed two separate term sheets, with one term sheet resolving the above-captioned litigation on behalf of the Direct Settlement Class and BNP Paribas and the other term sheet resolving the above-captioned litigation on behalf of the Exchange-Only Settlement Class and BNP Paribas. Although the agreement to resolve the claims of the Exchange-Only Settlement Class was achieved on the same day as the agreement with respect to the Direct Settlement Class, that agreement was discussed and negotiated separately during the course of the mediation overseen by myself.

51. On October 1, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for BNP Paribas executed the BNP Paribas Stipulation to resolve the above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and BNP Paribas.

**D. Citigroup**

52. The negotiation between Class Lead Counsel and counsel for Citigroup, overseen by me, has resulted in settlements of \$394,000,000 on behalf of the Direct Settlement Class and \$8,000,000 on behalf of the Exchange-Only Settlement Class. In addition to the monetary component, Citigroup has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

53. It is my belief that the settlements reached with Citigroup as a result of the negotiations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter.

54. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

55. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date

of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

56. As described below, the settlements on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately negotiated in negotiations overseen by myself.

57. In early 2015, I was asked by both Class Lead Counsel and counsel for Citigroup if I would agree to serve in an agreed upon voluntary and confidential negotiation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and Citigroup. I agreed to do so with the agreement of both sides.

58. Before negotiations began, I spoke with representatives from each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a negotiated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

59. The first joint negotiation session between Class Lead Counsel and counsel for Citigroup occurred on February 12, 2015 in Washington, DC. During this session, I urged resolution of various issues. Financial terms were also discussed, but no final agreement was reached as to any of the outstanding issues. After this first negotiation session, I engaged in frequent telephone conversations and occasional face-to-face meetings with the negotiation participants, separately and together, in an effort to help the parties reach a successful negotiated settlement. Both Class Lead Counsel and counsel for Citigroup attended a second in-person joint negotiation session on March 4. I continued to engage the parties in efforts to move them toward a negotiated settlement through telephone conversations and in-person meetings after this second



session. As a result of these telephone conversations and continued negotiation, and at my urging and direction, the negotiation participants exchanged proposed revisions to a settlement agreement and engaged in direct negotiations. All outstanding disagreements were eventually resolved.

60. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

61. On March 27, 2015, Class Lead Counsel and counsel for Citigroup executed a term sheet to resolve the above-captioned litigation on behalf of the Direct Settlement Class and Citigroup.

62. Negotiations with respect to the exchange-only settlement continued beyond that date. On May 14, 2015, Class Lead Counsel and counsel for Citigroup executed a term sheet to resolve the above-captioned litigation on behalf of the Exchange-Only Settlement Class and Citigroup.

63. On October 1, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for Citigroup executed the Citigroup Stipulation to resolve the above-captioned litigation on behalf of the Direct Settlement Class, Exchange-Only Settlement Class, and Citigroup.

**E. Goldman Sachs**

64. The mediation between Class Lead Counsel and counsel for Goldman Sachs, overseen by me, has resulted in settlements of \$129,500,000 on behalf of the Direct Settlement Class, \$5,000,000 on behalf of the Exchange-Only Settlement Class, and \$500,000 for notice and administration costs. In addition to the monetary component, Goldman Sachs has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

65. It is my belief that the settlements reached with Goldman Sachs as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter.

66. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

67. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

68. As described below, the settlements on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately negotiated in mediation overseen by myself.

69. In early 2015, I was asked by both Class Lead Counsel and counsel for Goldman Sachs if I would agree to serve as a sole Mediator in an agreed-upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and Goldman Sachs. I agreed to do so with the agreement of both sides.

70. Before mediation began, I spoke with representatives from each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also

discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

71. Following a meeting between counsel for Goldman Sachs and Class Lead Counsel on March 4, 2015, I conducted mediation sessions telephonically. During these sessions, I urged resolution of various issues. Financial terms were also discussed, but no final agreement was reached as to any of the outstanding issues. After the first mediation session, I engaged in frequent telephone conversations and occasional face-to-face meetings with the mediation participants, separately and together, in an effort to help the parties reach a successful mediated settlement. As a result of these telephone conversations, and at my urging and direction, the mediation participants exchanged proposed revisions to a settlement agreement and engaged in direct negotiations. All outstanding disagreements were eventually resolved.

72. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

73. On April 10, 2015, Class Lead Counsel and counsel for Goldman Sachs executed a term sheet to resolve the above-captioned litigation on behalf of the Direct Settlement Class and Goldman Sachs.

74. On May 11, 2015, Class Lead Counsel and Goldman Sachs executed a term sheet to resolve the above-captioned litigation on behalf of the Exchange-Only Settlement Class and Goldman Sachs.

75. On October 1, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for Goldman Sachs executed the Goldman Sachs Stipulation to resolve the

above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and Goldman Sachs.

**F. HSBC**

76. The mediation between Class Lead Counsel and counsel for HSBC, overseen by me, has resulted in settlements of \$279,000,000 on behalf of the Direct Settlement Class and \$6,000,000 on behalf of the Exchange-Only Settlement Class. In addition to the monetary component, HSBC has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

77. It is my belief that the settlements reached with HSBC as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter.

78. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

79. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

80. In early 2015, I was asked by both Class Lead Counsel and counsel for HSBC if I would agree to serve as a sole Mediator in an agreed-upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and HSBC. I agreed to do so with the agreement of both sides.

81. Before mediation began, I spoke with representatives from each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

82. The first joint mediation session between Class Lead Counsel and counsel for HSBC occurred on May 29, 2015 in New York, NY. During this session, I urged resolution of various issues. This mediation session resulted in an agreement in principle on the financial terms of each of the respective settlements. On June 2, 2015, Class Lead Counsel submitted term sheets for the Direct and Exchange-Only settlements to HSBC. The term sheets were not executed, and instead, the mediation participants negotiated the final stipulation that would encompass both settlements. All outstanding disagreements were eventually resolved.

83. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

84. At the mediation session on May 29, 2015, Class Lead Counsel and counsel for HSBC reached an agreement in principle to resolve the above-captioned litigation with respect to the Direct Settlement Class, the Exchange-Only Settlement Class, and HSBC. The next day, Class Lead Counsel submitted term sheets for both the settlements to HSBC. These were not executed, and instead, the parties continued to negotiate the final stipulation that would encompass both

settlements. Although the agreement to resolve the claims of the Exchange-Only Settlement Class was achieved on the same day as the agreement with respect to the Direct Settlement Class, it was discussed and negotiated separately during the course of the mediation overseen by myself.

85. On October 1, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for HSBC executed a settlement agreement to resolve the above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and HSBC.

**G. JPMorgan**

86. The mediations between Class Lead Counsel and counsel for JPMorgan, overseen by me, has resulted in settlements of \$99,000,000 on behalf of the Direct Settlement Class, \$5,000,000 on behalf of the Exchange-Only Settlement Class, and \$500,000 for notice and administration costs. In addition to the monetary component, JPMorgan has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

87. It is my belief that the settlements reached with JPMorgan as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter. In addition, as the first defendant to settle the above-captioned litigation, the mediation process employed by Class Lead Counsel and counsel for JPMorgan established the precedent and settlement structure that was implemented by Class Lead Counsel and the other Settling Defendants.

88. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the

product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

89. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

90. As described below, the settlements on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately negotiated in mediation overseen by myself.

91. In late 2014, I was asked by both Class Lead Counsel and counsel for JPMorgan if I would agree to serve as a sole Mediator in an agreed-upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and JPMorgan. I agreed to do so with the agreement of both sides.

92. I met face-to-face with representatives from each of the parties separately on November 25, 2014 in Washington, DC. During these meetings, I heard background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

93. The first joint mediation session between Class Lead Counsel and counsel for JPMorgan occurred on December 1, 2014 in Washington, DC. During this session, I urged resolution of various issues. Financial terms were also discussed, but no final agreement was reached as to any of the outstanding issues. After this first mediation session, I engaged in frequent

telephone conversations and occasional face-to-face meetings with the mediation participants, separately and together, in an effort to help the parties reach a successful mediated settlement. As a result of these telephone conversations, and at my urging and direction, the mediation participants exchanged proposed revisions to a settlement agreement and engaged in direct negotiations. All outstanding disagreements were eventually resolved.

94. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

95. On January 5, 2015, Class Lead Counsel and counsel for JPMorgan executed a settlement agreement to resolve the above-captioned litigation on behalf of the Direct Settlement Class and JPMorgan.

96. Following the execution of the UBS Stipulation in March 2015, Class Lead Counsel and counsel for JPMorgan began negotiating the terms of an amended stipulation that would address JPMorgan's potential liability for additional claims and to additional class members.

97. After the exchange of several proposed term sheets providing an outline for the scope of a resolution of claims by the Exchange-Only Settlement Class, Class Lead Counsel and counsel for JPMorgan reached an agreement in principle on the financial term of the Exchange-Only Settlement Class on or about June 10, 2015. The parties did not execute a separate term sheet for the Exchange-Only Settlement Class, but began negotiating amendments to the existing stipulation.

98. On October 1, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for JPMorgan executed the JPMorgan Amended Stipulation to ultimately



resolve the above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and JPMorgan.

**H. RBS**

99. The mediation between Class Lead Counsel and counsel for RBS, overseen by me, has resulted in settlements of \$247,000,000 on behalf of the Direct Settlement Class and \$8,000,000 on behalf of the Exchange-Only Settlement Class. In addition to the monetary component, RBS has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

100. It is my belief that the settlements reached with RBS as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter.

101. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

102. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

103. As described below, the settlements on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately negotiated in mediation overseen by myself.

104. In early 2015, I was asked by both Class Lead Counsel and counsel for RBS if I would agree to serve as a sole Mediator in an agreed upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and RBS. I agreed to do so with the agreement of both sides.

105. Before mediation began, I spoke with representatives from each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

106. The first joint mediation session between Class Lead Counsel and counsel for RBS occurred on April 17, 2015. During this session, I urged resolution of various issues. Financial terms were also discussed, but no final agreement was reached as to any of the outstanding issues. After this first mediation session, I engaged in frequent telephone conversations and occasional face-to-face meetings with the mediation participants, separately and together, in an effort to help the parties reach a successful mediated settlement. A second mediation session occurred on April 29, 2015, during which the parties reached agreements in principle with respect to the terms of a settlement between RBS and the Direct Settlement Class and with respect to the terms of a settlement between RBS and the Exchange-only Settlement Class. All outstanding disagreements were eventually resolved.

107. These settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

108. On April 30, 2015, Class Lead Counsel submitted term sheets for the Direct and Exchange-Only settlements to RBS.

109. On May 7, 2015, Class Lead Counsel and counsel for RBS executed a term sheet to resolve the above-captioned litigation on behalf of the Direct Settlement Class and RBS. The Exchange-Only term sheet was not executed, and instead the parties continued to negotiate over the final stipulation that would encompass both settlements.

110. On October 2, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for RBS executed the RBS Stipulation to resolve the above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and RBS.

#### **I. UBS**

111. The mediation between Class Lead Counsel and counsel for UBS, overseen by me, has resulted in settlements of \$135,000,000 on behalf of the Direct Settlement Class and \$6,075,000 on behalf of the Exchange-Only Settlement Class. In addition to the monetary component, UBS has agreed to provide the Settlement Classes with cooperation in the above-captioned action.

112. It is my belief that the settlements reached with UBS as a result of the mediations are fair, reasonable, and adequate. I base this opinion both on my previous extensive experience in mediating similar complex civil disputes and my careful evaluation and analysis of the proposed settlement terms and conditions in this matter. In addition to the monetary consideration and cooperation identified above, UBS provided unique cooperation to Class Counsel. During the course of mediation, UBS provided Class Counsel with an overview of information to which they would proffer if a settlement was agreed upon at the specified monetary value. This information

related to collusion with respect to bid/ask spreads. As a further condition of the agreement, the parties negotiated a requirement that UBS provide a near-immediate initial proffer upon execution of the stipulation of settlement with respect to the Direct Settlement Class. This proffer was a condition of settlement that would enable Class Counsel to assess the scope of potential amendments to the complaint and more adequately inform their negotiations with other Defendants.

113. In my opinion, the settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class are appropriate. The settlements that were reached were the product of hard-fought negotiations at arm's-length. Both sides of the negotiations were represented by experienced counsel, who were informed in the negotiations by sophisticated economic analyses and assessments of relative market share, prepared by financial experts.

114. The settlements also return cooperation to the Settlement Classes in the form of attorney proffers, transaction data, document production, witness interviews, depositions, and trial testimony. The Settlement Classes are also entitled to this cooperation until the later of the date of final judgment in the Action with respect to all Defendants or seven years after preliminary approval.

115. As described below, the settlements on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately negotiated in mediation overseen by myself.

116. In early 2015, I was asked by both Class Lead Counsel and counsel for UBS if I would agree to serve as a sole Mediator in an agreed-upon voluntary and confidential mediation process designed to secure a comprehensive settlement in the above-captioned matter between Plaintiffs and UBS. I agreed to do so with the agreement of both sides.

117. Before mediation began, I spoke with representatives from each of the parties. Each party provided me with background information about the litigation and its status, as well as each party's views as to the litigation risks if a mediated settlement were not achieved. Each side also discussed with me in confidence what it saw as the outstanding issues and how those outstanding issues might be resolved.

118. The first joint mediation session between Class Lead Counsel and counsel for UBS occurred on February 9, 2015 in Washington, DC. During this session, I urged resolution of various issues. Financial terms were also discussed, but no final agreement was reached as to any of the outstanding issues. After this first mediation session, I engaged in frequent telephone conversations and occasional face-to-face meetings with the mediation participants, separately and together, in an effort to help the parties reach a successful mediated settlement. As a result of these telephone conversations, and at my urging and direction, the mediation participants exchanged proposed revisions to a settlement agreement and engaged in direct negotiations. All outstanding disagreements were eventually resolved.

119. Each of the settlement discussions were vigorous and at arm's-length, involving highly experienced counsel representing both sides.

120. On March 6, 2015, Class Lead Counsel and counsel for UBS executed a settlement agreement to resolve the above-captioned litigation on behalf of the Direct Settlement Class and UBS.

121. Negotiations with respect to the exchange-only settlement continued, resulting in an agreement in principle on the settlement amount of \$6,075,000 on June 9, 2015. A term sheet memorializing that agreement was executed by all parties on August 4, 2015.

122. The parties proceeded to negotiate revisions to the executed settlement stipulation, reforming the agreement so that it would encompass both the Direct Settlement Class and the Exchange-Only Settlement Class.

123. On October 5, 2015, following multilateral negotiations between Plaintiffs and all Settling Defendants to harmonize certain key terms of the Settlement Agreements, Class Lead Counsel and counsel for UBS executed the UBS Amended Stipulation to resolve the above-captioned litigation on behalf of the Direct Settlement Class, the Exchange-Only Settlement Class, and UBS.

## **II. CONCLUSION**

124. To date, I have served as Mediator in the above-described mediations and negotiations between Plaintiffs and the Settling Defendants. Through these mediations and negotiations, the Plaintiffs and Settling Defendants have reached settlements totaling \$1,948,500,000 on behalf of the Direct Settlement Class, \$59,575,000 on behalf of the Exchange-Only Settlement Class, and \$1,000,000 in notice and administration costs.

125. The settlements reached on behalf of the Direct Settlement Class and the Exchange-Only Settlement Class were separately discussed and negotiated through mediations and negotiations overseen by me. In my opinion, the settlements on behalf of each of the respective Settlement Classes with each of the Settling Defendants were the result of vigorous and hard-fought arm's-length negotiations by highly-experienced counsel on both sides.

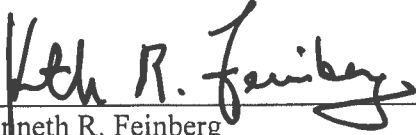
126. The success of these mediations and negotiations, in my opinion, was driven in large part by the highly-skilled counsel representing both Plaintiffs and Settling Defendants. During the course of the mediations and negotiations, counsel for all parties demonstrated considerable tenacity, efficiency, and flexibility in steering nine separate negotiations of

substantially varying tone toward a satisfactory compromise. As a result of this commitment and dedication, the mediations and negotiations described above are among the most successful of my career, with each party who entered the process ultimately agreeing to settle.

127. Based on my extensive experience in designing, implementing, and administering settlement compensation programs, it is my opinion that the language and nature of the Releases in these settlements is appropriate and the result of vigorous arm's-length negotiation between and among Plaintiffs and each of the Settling Defendants.

128. Finally, I note that each of the Releases excludes claims based on transactions executed solely outside the United States arising under foreign laws belonging to any Releasing Party or Person that is domiciled outside the United States as well as claims related to "last look" practices that may have been used with respect to electronic trading.

I declare under penalty of perjury that the foregoing is a true and correct statement of my opinions. Executed on October 22, 2015, at Washington, DC.

  
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Kenneth R. Feinberg

# EXHIBIT A



**KENNETH R. FEINBERG, ESQ.**  
*The Law Offices of Kenneth R. Feinberg, PC*

Kenneth R. Feinberg is one of the nation's leading experts in mediation and alternative dispute resolution. He has administered numerous high-profile compensation programs, having served as Special Master of the September 11<sup>th</sup> Victim Compensation Fund, TARP Executive Compensation, and the Agent Orange Victim Compensation Program.

Mr. Feinberg was recently appointed as Special Master by the Secretary of the Treasury in order to oversee the Department of Treasury's review of applications proposing to reduce pension benefits in connection with the Kline-Miller Multiemployer Pension Reform Act. Since 2014, he has also served as the Administrator of the GM Ignition Compensation Claims Resolution Facility.

In 2013, Mr. Feinberg served as Administrator of the One Fund Boston Victim Relief Fund, designing and implementing a claims program for the distribution of over \$60 million in corporate and private donations to the victims of the April 2013 Boston Marathon bombings. Mr. Feinberg has also served in a *pro bono* capacity as Advisor for the Newtown-Sandy Hook Victim Compensation Fund, Administrator of the Aurora Victim Relief Fund following the Colorado movie theater shooting in 2012, and Administrator of the Hokie Spirit Memorial Fund following the shootings at Virginia Tech University in 2007.

Mr. Feinberg was appointed by the Obama Administration and BP in 2010 to serve as Administrator of the Gulf Coast Claims Facility to compensate victims of the BP Deepwater Horizon oil spill in the Gulf of Mexico.

Secretary of the Treasury Timothy Geithner appointed Mr. Feinberg to serve as Special Master for the Troubled Asset Relief Program ("TARP") Executive Compensation in 2009 in order to make determinations regarding the compensation structures of certain employees of TARP recipients who had received exceptional financial assistance. During this time, Mr. Feinberg also served as Court appointed Fee Examiner of the Lehman Brothers bankruptcy, examining and instituting caps on fees and expenses charged by professionals retained during the bankruptcy process.

In 2008, Mr. Feinberg designed, implemented and administered Alternative Dispute Resolution Programs for Liberty Mutual Insurance Company and Zurich Insurance Company for resolving insurance claims arising from Hurricanes Katrina, Gustav, Ike and other hurricanes in the Gulf region.

Mr. Feinberg was appointed in June of 2007 as the Distribution Agent *In Re: United States Securities and Exchange Commission v. American International Group, Inc.*, responsible for the design and implementation of a Plan for the distribution of a fund of \$800 million to eligible claimants. He has also served as Fund Administrator in other prominent settlements including: *In Re: United States of America v. Computer Associates International, Inc.* (responsible for the design and implementation of a restitution fund of \$275 million); *In Re: International Air Transportation Surcharge Antitrust Litigation* (responsible for the design and administration of a \$200 million fund in both the United States and England); *In Re: Zyprexa Product Liability Litigation* (a \$700 million settlement fund); *In Re: Latino Officers Association City of New York v The City of New York* (a \$17 million settlement fund).

In November 2001, Attorney General John Ashcroft appointed Mr. Feinberg to serve as Special Master of the September 11<sup>th</sup> Victim Compensation Fund. In this capacity, Mr. Feinberg developed and promulgated the Regulations governing the Fund's administration and oversaw the evaluation of applications, determination of appropriate compensation, and dissemination of awards totaling \$7 billion.

Mr. Feinberg received his B.A. *cum laude* from the University of Massachusetts in 1967 and his J.D. from New York University School of Law in 1970, where he was Articles Editor of the *Law Review*. He was a

Law Clerk for Chief Judge Stanley H. Fuld, New York State Court of Appeals from 1970 to 1972; Assistant United States Attorney, Southern District of New York from 1972 to 1975; Special Counsel, United States Senate Committee on the Judiciary from 1975 to 1978; Chief of Staff to Senator Edward M. Kennedy from 1978 to 1980; Partner at Kaye, Scholer, Fierman, Hays & Handler from 1980 to 1993; and founded The Feinberg Group, LLP in 1993.

## **MEDIATION**

Special Settlement Master, In re: Andrew Herman. et al. v. Westinghouse Electric Corporation (employment discrimination class action).

Special Settlement Master, In re: "Agent Orange" Product Liability Litigation.

Special Settlement Master, County of Suffolk et al. v. Long Island Lighting Co. et al. (Shoreham Nuclear Facility class action RICO litigation).

Special Settlement Master, In re: Eagle-Picher Industries Inc. (national asbestos personal injury/wrongful death class action).

Special Settlement Master, In re: Joint Eastern and Southern District Asbestos Litigation (federal and state asbestos personal injury/wrongful death litigation arising out of exposures at the Brooklyn Navy Yard).

Special Settlement Master, In re: Asbestos Personal Injury Litigation (asbestos personal injury/wrongful death litigation pending in the Maryland State courts).

Special Settlement Master, In re: Joint Eastern and Southern District Asbestos Litigation (federal asbestos personal injury/wrongful death litigation arising out of exposures at various New York utilities).

Special Settlement Master/Referee, In re: DES Cases (federal and state personal injury/wrongful death DES litigation).

Trustee, In re: A.H. Robins Co. (Dalkon Shield Claimants' Trust).

Mediator, FRT Plywood Mediation (fire retardant plywood litigation involving allegations of defective roofs in approximately 250,000 homes).

Mediator in hundreds of matters involving allegations of antitrust violations, breach of contract, civil RICO violations, civil fraud and product liability; mediator in various commercial and insurance coverage disputes.

Member, National Panel, Center for Public Resources (one of 64 individuals selected nationally by the CPR to mediate and/or engage in other forms of alternative dispute resolution).

Arbitrator, American Arbitration Association.

Arbitrator, Marine Spill Response Corporation.

Former Vice-Chair, Committee on Alternative Dispute Resolution, American Bar Association.

**LAW**

Managing Partner, Feinberg Rozen, LLP (2009 – present).

Founder, The Feinberg Group, LLP, Washington, D.C. (1993-2009).

Partner, Kaye, Scholer, Fierman, Hays & Handler, Washington, D.C. (1980-1993).

Steven and Maureen Klinsky Lecturer on Law, Harvard University Law School, Cambridge, Mass. (2015-present)

Adjunct Professor of Law, Harvard University Law School, Cambridge, Mass. (2008-2015)

Adjunct Professor of Law, Georgetown University Law Center, Washington, D.C. (1979-Present).

Adjunct Professor of Law, University of Pennsylvania Law School, Philadelphia, PA (1998-2005).

Adjunct Professor of Law, New York University School of Law, New York, NY (2000-Present).

Adjunct Professor of Law, Columbia University Law School (2002-2006).

Adjunct Professor of Law, University of Virginia Law School, Charlottesville, VA (Current Semester 2000).

Adjunct Professor of Law, The Graduate School of Political Management, New York, New York. (1988-1990).

Visiting Lecturer, University of California, Los Angeles, Los Angeles, California (2007).

Visiting Lecturer, Vanderbilt University, Nashville, Tennessee (2008).

Visiting Lecturer, Duke University, Durham, North Carolina (2008).

Visiting Lecturer, New York Law School, New York, New York (2008).

Administrative Assistant, Senator Edward M. Kennedy, Washington, D.C. (1978-1980).

Special Counsel, United States Senate Committee on the Judiciary, Washington, D.C. (1977-1978).

General Counsel, Subcommittee on Administrative Practice and Procedure, United States Senate Committee on the Judiciary, Washington, D.C. (1975-1977).

Assistant United States Attorney, Southern District of New York (1972-1975).

**COMMISSIONS**

General Counsel, James Madison Memorial Fellowship Foundation. (Public Law No. 99-591 (1986) and, as amended, Public Law No. 101-208 (1989).

Member, Presidential Advisory Committee on Human Radiation Experiments (1994-1998).

Member, Presidential Commission on Catastrophic Nuclear Accidents. (1989-1990).

Member, Carnegie Commission Task Force on Science and Technology in Judicial and Regulatory Decisionmaking. (1989-Present).

Member, American Bar Association Special Committee on Mass Torts. (1988-1989).

Special Consultant, United States Sentencing Commission. (1984-1987); Chairman, New York State Committee on Sentencing Reform. (1985-1987).

### **EDUCATION**

J.D. (Cum Laude), New York University School of Law (1970) (New York University Law Review; Butler Prize for “Unusual distinction in scholarship, character and professional activities;” Newman Prize for “Ameritorious achievement in the area of public law.”)

B.A. (Cum Laude), University of Massachusetts (1967) (Class commencement address)

Law Clerk, Chief Judge Stanley H. Fuld, New York State Court of Appeals. (1970-1972)

### **HONORS AND AWARDS**

Listed in “The 100 Most Influential Lawyers in America,” *The National Law Journal* (March 25, 2013).

Honorary Doctorate, Curry College, Milton, May 2013.

Honorary Doctor of Humane Letters, Salem State University, 2012.

Honorary Doctor of Laws, Saint Francis College, May, 2011.

Honorary Doctor of Laws, Suffolk University, May, 2010.

Designated “Lawyer of the Year” by the *National Law Journal* (December, 2004).

Listed in “Profiles in Power: The 100 Most Influential Lawyers in America” (*National Law Journal*, May 2, 1988; March 25, 1991; April 4, 1994; June 12, 2000; June 19, 2006).

Listed in “The Next Establishment: Twenty-Seven Future Leaders of America’s Major Firms” (The American Lawyer, March, 1986).

Listed in “125 Alumni to Watch,” University of Massachusetts (October 15, 1988).

Charles A. Fahy Annual Award for Best Adjunct Professor of Law, Georgetown University Law Center (1988-1989).

### **BAR AND PROFESSIONAL AFFILIATIONS**

New York 1971

District of Columbia 1977

Massachusetts 1980

Southern District of New York 1973

Northern District of New York 1991

Federal District Court of the District of Columbia 1981

Federal District Court for the District of Massachusetts 1981

United States Court of Appeals for the Second Circuit 1972

Bar Association of the City of New York 1972

Bar Association of the District of Columbia 1977

Massachusetts Bar Association 1980

American Bar Association Ad Hoc Committee on Tort Law Reform (Chairman, Subcommittee on Statutory Compensation Systems).

Advisory Board, Center for Research in Crime and Justice of the New York University School of Law (1984)

Member of Board of Directors, Lawyers Committee for Human Rights, New York (1990).

Member of Board of Directors, National Organization for Victim Assistance, Washington, D.C. (1991)

Chairman of the Board of the RAND Institute for Civil Justice, Washington, D.C. (2009)

President of the Washington National Opera, Washington, D.C. (2007 – 2011)

Member, Board of Overseers, RAND Institute for Civil Justice, Washington, D.C. (2010- present)

Vice-Chairman of Human Rights First, New York, NY. (2007 - Present)

Member of the Board of Trustees, The Bazelon Center for Mental Health Law, Washington, D.C. (1996 - Present)

Founding Chairman, RAND Center for Catastrophic Risk Management and Compensation (2012 – present)

## **PUBLICATIONS**

### **1. Books**

Who Gets What? Fair Compensation After Tragedy and Financial Upheaval (Public Affairs Press, 2012).

What is Life Worth? The Unprecedented Effort to Compensate the Victims of 9/11 (Public Affairs Press, 2005).

### **2. Law Review Articles**

“Unconventional Responses to Unique Catastrophes: Tailoring the Law to Meet the Challenges,” The Thomas M. Cooley Law School, Law Review, Vol. 30, No. 3 (Hilary Term 2013)

“BP Exploration & Production Inc., et al.” Supreme Court of the United States, On Petition for a Writ of Certiorari to the United States Court of Appeals, for the Fifth Circuit, No. 14-123 (2014)

“Unconventional Responses to Unique Catastrophes: Tailoring the Law to Meet the Challenges,” Chapman Law Review, Chapman Dialogue Series, Vol. 17, No. 2 (Spring 2014)

"Is the Class Half-Empty or Half-Full?," Loyola University Chicago Law Journal, Vol. 44, No. 2 (Winter 2012)

"Democratization of Mass Litigation: Empowering the Beneficiaries," "The Democratization of Mass Litigation?" Columbia Journal of Law and Social Problems, Symposium, Vol. 45, No. 4, 481-498 (Summer 2012)

"Unconventional Responses to Unique Catastrophes," Akron L. Rev. Vol. 45, No. 3, 575-582 (2012)

"The September 11<sup>th</sup> Victim Compensation Fund of 2001: Policy and Precedent," New York Law School L. Rev. Vol. 56, 1115 (2011/12)

"Symposium on Executive Compensation," Keynote Address, 64, No.2 Vanderbilt L. Rev. 349 (2011)

"Reexamining the Arguments in Owen M. Fiss, Against Settlement," 78 Fordham L. Rev. 3 (2009)

"Keynote Presentation: The Sixth John A. Speziale Alternative Dispute Resolution Symposium," 27 No. 3 Quinnipiac University School of Law L. Rev. 779 (2009)

"Compensating Victims of Disaster: The United States Experience," 79 Papers on Parliament No. 49, Constitutional Politics and Other Lectures in the Senate Occasional Lecture Series (2008)

"Tributes to Justice Stephen G. Breyer," 64 N.Y.U. Annual Survey of American Law 1 (2008).

"How Can ADR Alleviate Long-Standing Social Problems? 34 Fordham Urban L.J., 785 (2007).

"Response to Robert L. Rabin," 106 Columbia L. Rev. 2 (2006).

"A Special Issue Dedicated to Judge Jack B. Weinstein," 97 Columbia L. Rev. 7 (1997).

"Response to Deborah Hensler, A Glass Half Full. A Glass Half Empty: The Use of Alternative Dispute Resolution in Mass Personal Injury Litigation," 73 Tex. L. Rev. 1647 (1995).

"Civil Litigation in the Twenty-First Century: A Panel Discussion," 59 Brooklyn L. Rev. 3 (1994).

"Federal Criminal Sentencing Reform: Congress and the United States Sentencing Commission," 28 Wake Forest L. Rev. 291 (1993).

"Using Mediation to Resolve Construction Disputes," in Cushman, Hedemann and Tucker, Alternative Dispute Resolution in the Construction Industry, ' 7.20 et seq. (John Wiley & Sons 1991).

"The Federal Law of Bribery and Extortion: Expanding Liability," in Obermaier and Morvillo, White Collar Crime: Business and Regulatory Offenses, ' 3.01 et seq. (Law Journal Seminars - Press 1990).

"The Dalkon Shield Claimants Trust," 53 Law and Contemporary Problems 79 (1990).

"The Federal Sentencing Guidelines: A Dialogue," 26 Crim. L. Bull. 5 (1990) (co-authored with Judge Stephen G. Breyer).

"Mediation -- A Preferred Method of Dispute Resolution," 16 Pepperdine L. Rev. 5 (1989).

"The Toxic Tort Litigation Crisis: Conceptual Problems and Proposed Solutions," 24 Houston L. Rev. 155 (1987).

"The Separation of Powers Issue in the Independent Counsel Debate," 25 Amer. Crim. L. Rev. 171 (1987).

"The Role of the Courts in Risk Management," 16 Environmental L. Repr. (1986).

"Attorneys' Fees in the Agent Orange Litigation: Modifying the Lodestar Analysis for Mass Tort Cases," 14 N.Y.U. Rev. of Law & Social Change 613 (1986) (co-authored with John S. Gomperts).

"The Comprehensive Crime Control Act of 1984 -- The Insanity Defense, Commitment Procedures, Victim Assistance, and Witness Protection," 5 Legal Notes & Viewpoints 34 (August, 1985).

"Introduction: Symposium on the Crime Control Act of 1984," 22 Amer. Crim. L. Rev. xi (1985).

"Selective Incapacitation and the Effort to Improve the Fairness of Existing Sentencing Practices," 12 N.Y.U. Rev. of Law & Social Change 53 (1984).

"Legislative Options: Recent Developments in Tort Law Reform," 39 Bus. Lawyer 209, 216 (1983).

"Foreword to the White-Collar Crime Symposium," 21 Amer. Crim. L. Rev. vii (1983).

"Sentencing Reform and the Proposed Federal Criminal Code," 5 Hamline L. Rev. 217 (1982).

"Extraterritorial Jurisdiction and the Proposed Federal Criminal Code," 72 J. of Crim. Law and Criminology 385 (1981).

"Economic Coercion and Economic Sanctions: Extraterritorial Enforcement of the Federal Antitrust Laws," 30 Amer. Univ. L. Rev. 323 (1981).

"Toward a New Approach to Proving Culpability: Mens Rea and the Proposed Federal Criminal Code," 18 Amer. Crim. L. Rev. 123 (Summer 1980).

### **3. Essays**

"The Myth of Moral Justice In-Print Symposium: A Brief Response," 4 Cardozo Public Law, Policy, and Ethics Journal 1 (2006).

"The September 11<sup>th</sup> Victim Compensation Fund," 32 ABA Litigation 2 (Winter 2006).

"The Federal Guidelines and the Underlying Purposes of Sentencing," Federal Sentencing Reporter at 326-327 (May/June 1991).

"Do Mass Torts Belong in the Courtroom?", 74 Judicature 237 (February, 1991).

"In the Shadow of Fernald: Who Should Pay the Victims?", 8 The Brookings Rev. 41 (1990).

"Settling a Mass Tort with a Claimants Trust," 9 Product Liability Law and Strategy 1 (October, 1990).

"How to Use Bankruptcy to Settle Mass Torts," 9 Product Liability Law and Strategy 8 (November, 1990).

"Drug Enforcement: Criminal Division," in America's Transition Blueprints for the 1990s 440 (M. Green & M. Pinsky, eds.) (1989).

Editor, Violent Crime in America (National Policy Exchange, 1983).

"Why NIJ should be Kept Within the Justice Department," 62 Judicature 306 (1979).

#### **4. Newspaper Articles & Periodicals**

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## **5. Official Documents**

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10.22.15

**CERTIFICATE OF SERVICE**

I hereby certify that on October 22, 2015, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List, and I hereby certify that I caused the foregoing document or paper to be mailed via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 22, 2015.

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