IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

OSHONYA SPENCER, CHARLES STRICKLAND and DOUGLAS MCDUFFIE, on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	
v.	)	No. 3:05CV1681 (JCH)
THE HARTFORD FINANCIAL SERVICES GROUP, INC., HARTFORD LIFE, INC., HARTFORD LIFE INSURANCE COMPANY, HARTFORD ACCIDENT AND INDEMNITY COMPANY, HARTFORD CASUALTY INSURANCE COMPANY, HARTFORD INSURANCE COMPANY OF THE MIDWEST and HARTFORD FIRE INSURANCE COMPANY,	)	
Defendants.	)	

MEMORANDUM OF LAW IN SUPPORT OF NAMED PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiffs Oshonya Spencer, Charles Strickland and Douglas McDuffie (collectively, "Named Plaintiffs") seek preliminary approval of the proposed settlement they have reached with Defendants The Hartford Financial Services Group, Inc., Hartford Life, Inc., Hartford Life Insurance Company, Hartford Accident and Indemnity Company, Hartford Casualty Insurance Company, Hartford Insurance Company of the Midwest and Hartford Fire Insurance Company (collectively, "The Hartford") and, if preliminary approval is granted, an order that notice of the proposed settlement be provided to the class.[1]

[1] Capitalized words and terms used in this Memorandum of Law shall have the defined meaning ascribed to these words and terms in the Settlement Agreement.

Preliminary approval is warranted if a proposed class action settlement is "sufficiently fair, reasonable and adequate to justify notice to those affected and an opportunity to be heard." *In re NASDAQ Market-Makers Antitrust Litigation*, 176 F.R.D. 99, 102 (S.D.N.Y. 1997) ("*NASDAQ I*") (citations omitted). Here, there is no question that the proposed settlement—pursuant to which The Hartford will pay $72.5 million for the benefit of the Settlement Class—is fair, reasonable and adequate. The parties reached their proposed settlement after almost five years of hard fought litigation, including motions practice in this Court, a petition to appeal to the United States Court of Appeals to the Second Circuit of the class certification order, extensive fact and expert discovery, and the development of a full legal and factual record. The proposed settlement was the product of extended arm's length negotiations between experienced counsel and was agreed only after multiple sessions with an experienced and respected mediator. If approved, it will provide a substantial monetary benefit to the all class members and represents an exceptional outcome for the class as a whole. Counsel for both sides believe and represent that the proposed settlement is appropriate.

I. PROCEDURAL HISTORY

The Named Plaintiffs commenced this action on October 31, 2005, challenging The Hartford's practices in connection with structured settlements that The Hartford entered into with personal injury and workers' compensation claimants, and alleging claims for violation of the Racketeer Influenced and Corruption Organizations Act ("RICO"), 18 U.S.C. §§ 1962(c) & 1962(d), as well as common-law claims for fraud, breach of contract and unjust enrichment. The Hartford moved to dismiss the original complaint, and the Named Plaintiffs filed an Amended Complaint. The Hartford again moved to dismiss the Amended Complaint. After oral argument, by order dated October 24, 2006, the Court denied The Hartford's motion to dismiss the

Amended Complaint. Thereafter, the Parties engaged in extensive discovery relating both to class certification and the merits of this action.

Initially, Named Plaintiffs asserted that The Hartford wrongfully retained up to 4% of the value of the structured settlements in order to offset the cost of the commissions that The Hartford paid to its exclusive, but independent, brokers who assisted in, and facilitated, the structured settlements. Through discovery, Class Counsel subsequently learned that pursuant to The Hartford's policy, The Hartford's property and casualty companies purchased the annuities they used to fund structured settlements exclusively from their sister company, Hartford Life. In order to achieve a targeted return on equity for The Hartford's shareholders, Hartford Life's annuities were priced so that The Hartford retained 15% of the economic value of the structured portion of the settlement. The Hartford's internal documents, which Named Plaintiffs obtained in discovery, reflected that those amounts were allocated to profit, costs and The Hartford's taxes.

Consequently, on February 6, 2008, in conjunction with their Motion for Class Certification, Named Plaintiffs moved to amend the complaint in order to assert claims predicated on The Hartford's retention of 15% of the value of the structured settlements, rather than the 4% on which the suit was originally based. The Hartford strongly opposed the Motion to Amend. On May 1, 2008, the Court granted the motion and permitted Named Plaintiffs to amend the complaint.

The Hartford also vigorously opposed the Named Plaintiffs' Motion for Class Certification, and the parties engaged in extensive briefing, submissions of supplemental authorities on numerous issues, and arguments before the Court. By order dated March 10, 2009, the Court granted certification of Named Plaintiffs' RICO and fraud claims, but denied

certification of their breach of contract and unjust enrichment claims. The Hartford filed a Petition for Permission to Appeal Pursuant to Federal Rule of Civil Procedure 23(f) with the United States Court of Appeals for the Second Circuit. The Named Plaintiffs opposed the petition. The Second Circuit denied The Hartford's petition for a pretrial appeal, citing the standard governing appellate review of the merits of a class certification order, on October 14, 2009.

The Parties completed fact discovery, both on the merits and on certain class discovery related to the potential new theories of liability and damages, while the Named Plaintiffs' motions to amend the complaint and for class certification were pending. After the Second Circuit denied The Hartford's Rule 23(f) petition, the parties engaged in merits expert discovery, including reports, rebuttal reports and depositions of multiple experts. Overall, discovery in this action has been extensive. The parties conducted dozens of depositions of fact and expert witnesses and reviewed and analyzed hundreds of thousands of pages of documents and data, including The Hartford's annuity pricing methodologies and the quoting software it employed in conjunction with negotiating structured settlement transactions with claimants.

Following the Court's grant of class certification, the Named Plaintiffs disseminated Court-approved notice of pendency of this Class Action to the members of the two certified trial subclasses through direct mailing and/or publication notice to the potential class members. The Court issued its final pre-trial scheduling order on March 5, 2010, setting the date for the trial to begin on September 27, 2010.

II. THE PROPOSED SETTLEMENT

In addition to numerous settlement discussions directly between counsel for both sides, the parties ultimately mediated this action before David Geronemus, Esq. of JAMS. Mr. Geronemus is a highly respected mediator who has extensive experience resolving complex

litigation and class actions. The parties conducted two full-day sessions before Mr. Geronemus on February 16, 2010 and April 16, 2010. The parties were represented at the mediation sessions by their respective counsel, all of whom are highly experienced and skilled and command a comprehensive understanding of the strengths and weaknesses of the parties' respective claims and defenses. At the end of the second session on April 16, the parties reached a settlement, which was reduced to writing in a term sheet signed by The Hartford's corporate representative and by Class Counsel. The parties subsequently memorialized their agreement in the more formal "Settlement Agreement" attached hereto as Exhibit 1.

The Settlement provides for significant monetary relief for the benefit of the members of the proposed Settlement Class. The Settlement Agreement provides for a payment of seventy-two million five hundred thousand dollars ($72,500,000), which will be deposited into a segregated, interest-bearing escrow account (the "Settlement Fund") within thirty days of the order of preliminary approval.[2] Notice and administrative costs, Tax Payments,[3] any award of attorneys' fees and expenses, any service awards to the Named Plaintiffs and/or any additional costs incurred by Class Counsel or Named Plaintiffs for the benefit of the Settlement Class and approved by the Court, will be paid from the Settlement Fund. The remaining amount (the "Net Settlement Fund") will be distributed to members of the Settlement Class pursuant to the terms

[2] Interest earned on the Settlement Fund beginning from the date of its deposit into the escrow account through the date of the Court's entry of the Settlement Order and Final Judgment will be for the benefit of The Hartford. Following entry of the Settlement Order and Final Judgment, the account will become a Qualified Settlement Fund ("QSF") and any interest earned on the Settlement Fund will be for the QSF and, therefore, for the benefit of the Settlement Class.

[3] Tax Payments, as outlined in the Settlement Agreement, will be incurred for interest earned on the Settlement Fund.

of the Settlement Agreement and the Plan of Allocation, which is attached to the Settlement Agreement as Exhibit "F".[4]

This Settlement is an exceptionally favorable result for the members of the Settlement Class, who each stand to recover, on average, thousands of dollars in additional compensation arising out of their structured settlements with The Hartford. The gross settlement payment represents 4.5% of each dollar of premium used to purchase the annuities funding the Class Members' structured settlements. This means that a Class Member who structured $100,000 of his or her personal injury or worker's compensation award would receive, on a gross basis, $4,500. The 4.5% figure exceeds the 4% sought in the Named Plaintiffs' initial complaint and represents a compromise on the expanded theory that the Named Plaintiffs pursued after learning in discovery that The Hartford retained, on average, 15% of the economic value of structured settlements to cover profits, taxes and costs. As described in the Settlement Agreement, each class member will receive an amount in proportion to the size of his or her structured settlement (measured by the premium used to purchase the structured settlement annuity), and all settlement funds (net of attorney's fees, litigation expenses and costs) will go to Class Members. None of the settlement funds reverts to The Hartford under the terms of the proposed Settlement.

The proposed Settlement puts real money in the pockets of the Class Members. As further explained below, given the risk, uncertainty and expense of continued litigation through summary judgment, trial and appeal, the proposed Settlement is an exceptional result and justifies notice to the Settlement Class.

[4] It is also notable that, as of November 6, 2009, The Hartford ceased writing new structured settlement business.

III. CERTIFICATION OF THE SETTLEMENT CLASS

The proposed Settlement Class is the same as the trial class this Court certified on March 10, 2009 ("Class Certification Order"). For convenience, the parties have combined the "cost" and "value" subclasses into one definition for settlement purposes, but the substance of the class definition is unchanged. The class has neither been expanded, nor contracted, and therefore should be certified for settlement purposes for the same reasons that the Court certified the class for trial purposes. *See* Fed. R. Civ. P. 23(c)(1) (certification order can be altered or amended before final judgment).[5]

IV. STANDARDS FOR PRELIMINARY APPROVAL

Rule 23(e) of the Federal Rules of Civil Procedure requires court approval of class action settlements. Fed. R. Civ. P. 23(e). When a proposed settlement is reached, the Court must first determine whether the terms of the settlement warrant preliminary approval such that notice may be provided to the members of the settlement class. *In re Currency Conversion Fee Antitrust Litig.*, No. 01 MDL 1409, 2006 WL 3247396, at *5 (S.D.N.Y. Nov. 8, 2006). "In other words, the court must make 'a preliminary evaluation' as to whether the settlement is fair, reasonable and adequate." *Id.* (quoting *In re NASDAQ Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 473 (S.D.N.Y. 1998) ("*NASDAQ III*")).

Preliminary approval does not require the Court to make findings as to each of the nine factors set forth by the Second Circuit in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d

[5] Should the Court determine that combining the two trial subclasses into the single Settlement Class constitutes an amendment (notwithstanding that class membership and composition have not changed), Named Plaintiffs respectfully move, pursuant to Rule 23(c)(1)(C) to amend the class definition accordingly.

Cir. 1974).[6] Rather, the test for granting preliminary approval is whether the proposed settlement is "'at least sufficiently fair, reasonable and adequate to justify notice to those affected and an opportunity to be heard.'" *NASDAQ I*, 176 F.R.D. at 102 (quotations omitted). Therefore, "[a]t this stage of the proceeding, the Court need only find that the proposed settlement fits within the range of possible approval." *In re Prudential Securities Inc.L.P. Litigation*, 163 F.R.D. 200, 210 (S.D.N.Y.1995). Accordingly, "[w]here the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class and falls within the range of possible approval, preliminary approval should be granted." *In re NASDAQ Market-Makers Antitrust Litig.*, No. 94 CIV. 3996, 1997 WL 805062, at *8 (S.D.N.Y. Dec. 31, 1997) (*NASDAQ II*).

V. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL

A. The Settlement Is Presumed to be Fair Because It Was the Result of Lengthy, Hard-Fought Litigation and Arms-Length Negotiations.

Where "the integrity of the arm's length negotiation process is preserved. . . a strong initial presumption of fairness attaches to the proposed settlement" and "great weight is accorded to the recommendations of counsel, who are most closely acquainted with the facts of the underlying litigation." *NASDAQ III*, 187 F.R.D. at 474 (citations and quotations omitted); *see also Wal-Mart Stores, Inc. v. VISA USA Inc.*, 396 F.3d 96, 116 (2d Cir. 2005) ("A presumption of fairness, adequacy and reasonableness may attach to a class settlement reached in arm's length

[6] Indeed, some of the factors relevant to the fairness and adequacy of the settlement are "impossible to weigh prior to notice and a hearing," such as "the reaction of the class to the settlement." *See, e.g., Reade-Alvarez v. Eltman, Eltman & Cooper, P.C.*, 237 F.R.D. 26, 34 (E.D.N.Y. 2006); *see also In re Prudential Securities Inc. L.P. Litigation*, 163 F.R.D. 200, 210 (S.D.N.Y.1995) (recognizing that "the Court will be in a position to fully evaluate the *Grinnell* factors at the fairness hearing").

negotiations between experienced, capable counsel after meaningful discovery."). The process leading to the settlement "must be examined 'in light of the experience of counsel, the vigor with which the case was prosecuted, and the coercion or collusion that may have marred the negotiations themselves.'" *Id.* at 473-74 (quoting *Malchman v. Davis*, 706 F.2d 426, 433 (2d Cir. 1983)).

In this case, highly experienced counsel on both sides negotiated this Settlement. Class Counsel all have extensive experience in the prosecution of complex commercial and class action litigation. The Hartford was represented by highly respected regional and national litigation counsel with an in-depth understanding of The Hartford's business. During the nearly five years that the case has been vigorously litigated, counsel for both sides have developed a comprehensive knowledge of the relevant facts and law by conducting extensive discovery and engaging in substantial motion practice before this Court and the Second Circuit. As a result, by the time the settlement was reached, counsel had "a thorough understanding of the complexity of the issues and the strengths and weaknesses of their respective claims, defenses and strategies." *In re Currency Conversion*, 2006 WL 3247396, at *5 (quotations omitted).

Furthermore, the Settlement was reached in good faith after fair and honest negotiations. The arm's-length negotiations took place over several months and included numerous telephonic meetings, as well as two full-day mediation sessions with Mr. Geronemus. *See In re Currency Conversion*, 2006 WL 3247396, at *5 (finding that the participation of a respected mediator "substantiates the parties' claim that the negotiations took place at arm's length"). Both sides zealously pressed their positions throughout the negotiation process, and have continued to do so even through the process of negotiating the language for their formal written agreement.

Class Counsel have made a considered judgment that the Settlement is not only fair,

reasonable and adequate but an excellent result for the Settlement Class. As noted above, their opinion is entitled to "great weight." *NASDAQ III*, 817 F.R.D. at 474; *see also Aramburu v. Healthcare Financial Services, Inc.*, No. 02-CV-6535, 2009 WL 1086938, at *2 (E.D.N.Y. Apr. 22, 2009) ("[I]n appraising the fairness of a proposed settlement, the view of experienced counsel favoring the settlement is entitled to a great weight.") (quotations omitted).

B. In View of the Litigation Risks, the Substantive Terms of the Settlement Are Highly Favorable to the Settlement Class.

When weighed against the risks of continued litigation, the proposed Settlement compares favorably with the results Named Plaintiffs could have obtained after trial and exhaustion of appeals. The $72.5 million fund created for the benefit of the Settlement Class Members is a substantial recovery, both in the aggregate and for individual Settlement Class members, each of whom stands to recover, on average, thousands of dollars in additional compensation. Overall, the $72.5 million Settlement Fund recovers approximately 4.5% of the total annuity premium for the Settlement Class, which is a substantial amount of the potential maximum recovery, and exceeds the maximum recovery initially sought in this Action.[7] This recovery is, at the very least, "well within the range of reasonableness." *See In re Michael Milken and Assoc. Secs. Litig.*, 150 F.R.D. 57, 67 (S.D.N.Y. 1993) (noting that in the *Grinnell* case, the proposed settlement represented 3.2% to 3.7% of the potential recovery).

The Class was by no means assured of such a favorable result in the absence of this proposed Settlement. As the Court recognized in its Class Certification Order, if the case went to trial, the Class ultimately could recover some, all or none of the 15% of the value of the structured settlements at issue; further either of the two subclasses the Court certified could have

[7] As discussed above, the original theory of the case sought the return of up to 4% of the structured portion of the underlying settlements.

faced significant difficulty proving liability and entitlement to damages. *See Spencer v. The Hartford Financial Services Group, Inc.*, 256 F.R.D. 284, 297-98 (D.Conn. 2009) ("Ultimately, defendants may prevail on the merits by demonstrating that the representations were not fraudulent. They may also succeed in limiting the definition of those damaged (on summary judgment or at trial) to those who fall into one subclass or the other – for example, those whose representations specified as 'value' as opposed to 'cost'.... Of course, a jury may ultimately decide that plaintiffs received what they bargained for and thus suffered no injury. Or they may decide that the 'value' plaintiffs suffered an injury but the 'cost' plaintiffs did not.") Moreover, the distinction between class members claiming misrepresentations as to "cost" versus those claiming misrepresentations as to "value" would have made the trial a complex proceeding.

Moreover, this proposed recovery is an excellent result in light of The Hartford's vigorous assertions that Named Plaintiffs could not satisfy the elements of RICO, prove any common-law fraud, or establish that any of the Class Members had suffered actual damages. At summary judgment and trial, The Hartford would have presented the testimony of multiple expert witnesses directly challenging Named Plaintiffs' experts' theories. The Hartford also intended to move to decertify the trial subclasses and to file *Daubert* motions seeking to exclude the opinions of Named Plaintiffs' expert witness. Finally, The Hartford has demonstrated—not least by appealing the Court's class certification order and retaining for that appeal the former Solicitor General of the United States—that it would certainly pursue an appeal if it were to lose at trial. *See, e.g., In re Michael Milken & Assocs. Sec. Litig.*, 150 F.R.D. 57, 65 (S.D.N.Y. 1993) (noting that "[i]t must also be recognized that victory even at the trial stage is not a guarantee of ultimate success" and citing a case where a "multimillion dollar judgment was reversed"); *Maley v. Del Global Techs. Corp.*, 186 F.Supp.2d 358, 362 (S.D.N.Y. 2002) (approval granted where

"[d]elay, not just at the trial stage but through post-trial motions and the appellate process, would cause Class Members to wait for years for any recovery, further reducing its value"); *In re Visa Check/Mastermoney Antitrust Litigation*, 297 F.Supp.2d 503, 510 (E.D.N.Y. 2003) (fact that the class faced a long trial and the additional time it would take to exhaust all appeals "weigh[ed] heavily in favor of approving Settlements").

In light of these significant litigation and appeal risks, the proposed Settlement is fair, reasonable and adequate. In these circumstances, it is clearly preferable "to take the bird in the hand instead of the prospective flock in the bush." *See In re Prudential Sec.*, 163 F.R.D. at 210.

C. The Class Members' Prior Opportunity to Exclude Themselves Was Sufficient, and The Court Need Not Order a Second Opt-Out Period.

The original Notice sent to prospective Class Members fully notified them of their right to opt out of the Class and afforded them the unrestricted opportunity to do so. The opt out period ended on May 3, 2010, only five weeks ago. Case law is clear that under such circumstances, there is no need for a second opt-out period, *Wal-Mart Stores*, 396 F.3d at 114; *see also In re MetLife Demutualization Litig.*, — F. Supp. 2d ----, 2010 WL 517389, at *41 (E.D.N.Y. 2010), and the Settlement Agreement does not provide for such a period.

As the Second Circuit has held, where as here the class members have been given "notice of the action, the opportunity to opt out, notice of the propose settlement, and the opportunity to object," the court need not order a "second opportunity to opt out." *Wal-Mart Stores*, 396 F.3d at 114; *see also In re MetLife Demutualization Litig.*, 2010 WL 517389, at *41 ("It is not necessary to provide the class members with an opportunity to opt out of the Settlement."). "The decision whether to approve a settlement that does not allow a new opportunity to elect exclusion is confided to the court's discretion." *Denny v. Deutsche Bank AG*, 443 F.3d 253, 271 (2d Cir. 2006); *see also* Fed. R. Civ. P. 23(e)(4).

In this case, there is especially no need for a second opt out period since the Notice of Pendency of Class Action sent to all prospective Class Members expressly notified them that if they remained in the Class, they would be bound by the results of the litigation, whether the case was resolved at trial or by settlement. The Notice provided:

> In a class action lawsuit, one court resolves the issues for everyone in the Class—except for those who exclude themselves from the Class. . . .
>
> If you are a member of the Class and do nothing, you remain in the Class. You will keep the right to get a share of any recovery that may come from a trial or settlement with the Defendants. . . . You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants about the legal issues in this case. All of the Court's orders will apply to you and legally bind you. . . .
>
> If you do not want to be bound by any judgment, whether favorable or unfavorable, that may be made in this case, do not want a payment from any settlement or recovery that may come from a trial or settlement, and you instead want to keep the right to sue the Defendants about the legal issues in this case, then you must take steps to exclude yourself from the class. This is sometimes referred to as "opting out" of the Class.

Notice of Filing Corrected Agreed Proposed Class Notice (filed Jan. 13, 2010) (Doc. No. 222) at Ex. A pp. 4 & 6 (emphasis added); *see also Denny*, 443 F.3d at 271 (finding original notice provided adequate opportunity to opt out).

By electing to remain in the Class, the Class Members thus have already expressly chosen to be bound by any judgment or settlement. Just as in the *MetLife* litigation, "[i]f any class members wished to control the prosecution or settlement of their own claims, they could have opted out or sought to intervene after notice of pendency was given." *In re MetLife.*, 2010 WL 517389, at *41. Moreover, all Class Members are fully protected with respect to the fairness of the Settlement in this case by their right to object to the Settlement, which is provided for by the Settlement Agreement. Indeed, since "the risk and expense of pursuing individual claims is

often not practicable, especially when more complex theories such as RICO are required," *In re Prudential*, 163 F.R.D. at 210, it is not surprising that only 49 potential class members (out of more than 21,000) previously elected to opt out.[8] Accordingly, the Court should preliminarily approve the Settlement without providing for an additional opt-out period.

VI. THE NOTICE PROGRAM IS THE BEST PRACTICABLE NOTICE TO SETTLEMENT CLASS MEMBERS

After preliminary approval of a proposed class action settlement is granted, Rule 23(e) requires the Court to "direct notice in a reasonable manner to all class members who would be bound by the proposal." Fed. R. Civ. P. 23(e)(1). The notice must inform class members of "the certification of the settlement class, the proposed settlement and the date of the final fairness hearing." *In re Currency Conversion*, 2006 WL 3247396, at *5 (quotations omitted).

The notice program outlined in the Settlement Agreement is the best practicable notice under the circumstances and is reasonably calculated to reach substantially all members of the Settlement Class. As a threshold matter, this notice program closely tracks—and indeed amplifies—the prior program for Notice of Pendency of Class Action that the Court approved on January 15, 2010. Likewise, the content of the notice closely follows the language previously approved by the Court as plain and easily understood.

Like the previously-approved notice program, the Settlement Agreement's notice program provides for direct mail notice to Settlement Class Members who can be identified with reasonable efforts. The proposed direct mail notice ("Notice of Proposed Class Action Settlement") is attached to the Settlement Agreement as Exhibit "B." The Settlement Agreement

[8] There were 49 timely opt outs, and two untimely opt outs, filed by the May 3, 2010 deadline set forth in the trial certification notice. Those 51 individuals will be given a right to opt back into the Settlement Class. A notice attached to the Settlement Agreement as Exhibit "C" (the "Election to Opt Bank In") will be sent to those 51 persons along with their Notice of Proposed Class Action Settlement.

also provides for publication of a summary notice in a national newspaper—again, just as the previously-approved notice program did. The Publication Notice is attached to the Settlement Agreement as Exhibit "D". The proposed notice program also includes the establishment and maintenance of a Settlement Website, from which Settlement Class Members can obtain copies of the Notices, Settlement Distribution Forms and other information and documents pertaining to the Settlement. Settlement Class Members also may submit their Settlement Distribution Form electronically via the Website. Finally, the notice program calls for the Claims Administrator to maintain a toll-free telephone inquiry system for the purpose of providing information and answering questions pertaining to the Settlement, and for providing documents requested by Settlement Class Members.

VII. THE PROPOSED SCHEDULE OF EVENTS

In connection with the preliminary approval of the Settlement, the Court must set a date for the Fairness Hearing, dates for filing papers in support of the Settlement and application for an award of attorneys' fees and expenses, and a deadline for objecting to the Settlement (and set dates for notice to the Settlement Class). Named Plaintiffs' proposed the following schedule:

Mail Notice (including Election to Opt Back In insert):	30 days from Preliminary Approval
Publication Notice (including establishment of website):	35 days from Preliminary Approval
Deadline for Objections:	60 days from Mail Notice
Deadline for briefs and materials in support of final approval of the Settlement:	20 days prior to Fairness Hearing
Deadline for briefs and materials in support of application for attorneys' fees and expenses and incentive awards:	50 days from Mail Notice

Deadline for responses to Objections, and Supplemental papers respecting final approval Of the Settlement, attorneys' fees and expenses and incentive awards:	7 days prior to Fairness Hearing
Fairness Hearing:	100 days from Preliminary Approval

VIII. CONCLUSION

For the foregoing reasons, the Court should grant preliminary approval of the Settlement, direct Class Counsel to provide notice to the Settlement Class Members, schedule a Fairness Hearing, and grant such other and further relief as the Court deems proper.

Dated: June 3, 2010

Respectfully submitted,

/s/David S. Golub

David S. Golub, Esq. (ct00145)
Jonathan M. Levine, Esq. (ct07584)
SILVER GOLUB & TEITELL LLP
184 Atlantic Street, P.O. Box 389
Stamford, CT 06904
(203) 325-4491

Peter R. Kahana, Esq. (phv0784)
Steven L. Bloch, Esq. (phv0786)
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
(215) 875-3000

Carl S. Kravitz, Esq. (phv01826)
Caroline E. Reynolds, Esq. (phv3807)
ZUCKERMAN SPAEDER LLP
1800 M Street, N.W., Suite 1000
Washington, D.C. 20036
(202) 778-1800

Richard B. Risk, Jr., Esq. (phv0785)
RISK LAW FIRM
3417 East 76th Street
Tulsa, OK 74136
(918) 494-8025

Attorneys for Named Plaintiffs and the Settlement Class