

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LAWRENCE E. JAFFE PENSION PLAN, On)	Lead Case No. 02-C-5893
Behalf of Itself and All Others Similarly)	(Consolidated)
Situated,)	
) <u>CLASS ACTION</u>
Plaintiff,)	
) Judge Ronald A. Guzman
vs.)	Magistrate Judge Nan R. Nolan
)
HOUSEHOLD INTERNATIONAL, INC., et)	
al.,)	
)
Defendants.)	
_____)	

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' OBJECTIONS TO CERTAIN
CLAIMS INCLUDED IN THE REPORT OF CLAIMS ADMINISTRATOR GILARDI &
CO. LLC**

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I. INTRODUCTION

In its Order Setting Schedule for Claims Adjudication and Class Notice, the Court ordered defendants to enumerate the claims to which they object in terms of the calculation of amount, submission of the claim without proper authority or other mechanical deficiencies. The Court specifically mandated that, “In connection with each such objection, defendants shall enumerate the claim number of the challenged claim and provide a claim-by-claim explanation or analysis of the basis for their objections.” February 3, 2012 Order at 1 [Dkt. No. 1798]. Defendants utterly failed to comply with the Court’s Order.

Instead, defendants provided a list of 28,735 claims to which they object on various generic bases. Defendants provide no “claim-by-claim explanation or analysis of the basis for their objections.” Indeed, in most cases, it is entirely unclear why defendants believe that the claims are objectionable beyond some vague, overarching description. On that basis alone, defendants’ objections should be overruled *en masse*. In the event the Court decides to entertain defendants’ generic objections, plaintiffs are providing this response with an Appendix of documents that support the challenged claims and refute defendants’ objections.

In large part, defendants completely ignore hundreds of documents, declarations, and letters from class members and their agents that address defendants’ objections, demonstrate the validity of the claims and support Gilardi & Co. LLC’s (“Gilardi”) allowed loss determinations. For the Court’s convenience, plaintiffs respond using the same numbering scheme used by defendants in their objections.

With limited exceptions noted herein, all of defendants’ objections should be overruled – even if defendants had complied with the Court’s February 3, 2012 Order and objected on a claim-by-claim basis. However, plaintiffs also note that there is one key fact that arises out of defendants’

objections: defendants concede that there are 17,186 valid claims with an allowed loss of \$1,375,352,269. Here, we address only the \$850,632,319 in claims to which defendants object.

A. Claims Submitted by Third Parties that Actually Provided Evidence of the Third Parties' Authority to File on Behalf of the Beneficial Owners

Defendants challenge claims submitted by 13 institutions on the grounds that those institutions have failed to demonstrate their authority to file on behalf of their clients and customers. Defendants ignore the record. As set forth below, each of these institutions has affirmed, in most cases in written declarations, that they have the authority to file these claims. There is no need to subject these claims to further review. Defendants' objections should be overruled.

1. BNY Mellon: 957 Claims - \$61,256,130 (Claims Listed on Ex. A-1-a)

BNY Mellon submitted electronic data for 2,968 accounts to Gilardi on March 31, 2011. Defendants challenge 957 of these claims on this basis. With this electronic data, BNY Mellon provided a cover letter with a master proof of claim form. The cover letter stated that BNY Mellon "is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of The Bank of New York Mellon's customers." *See* Ex. A-1-b. On or about October 5, 2011, BNY Mellon also provided Gilardi with a declaration executed by Scott Dembowski, a Vice President of BNY Mellon. Mr. Dembowski affirms that BNY Mellon is "the authorized representative responsible for the electronic filing of class action claims on behalf of the accounts set forth on Exhibit A" of his declaration. Each of the 957 BNY Mellon claims challenged by defendants is listed in Exhibit A. Ex. A-1-c. Finally, BNY Mellon submitted a copy of a certification affirming Mr. Dembowski's authority to execute such a declaration on behalf of BNY Mellon. *See* Ex. A-1-d. Defendants' objections should be overruled with respect to each of these claims.

2. Northern Trust: 1,813 Claims - \$31,452,418 (Claims Listed on Ex. A-2-a)

On March 24, 2011, Northern Trust submitted a CD-ROM to Gilardi containing account information for 4,538 of its clients, accompanied by a proof of claim form, certification and cover letter. *See* Ex. A-2-b. Defendants challenge 1,813 of these claims on this basis. The cover letter stated that, “[p]ursuant to Northern Trust’s by-laws, the undersigned [Patrick Krull] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of Northern Trust’s clients.” *Id.* On or about October 3, 2011, Northern Trust provided Gilardi with a declaration from Patrick Krull, a Vice President at the Northern Trust Company. *See* Ex. A-2-c. Mr. Krull affirmed:

Attached hereto as Exhibit A is a list of each claim filed by Northern Trust electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. Northern Trust filed each of these claims on behalf of a client or customer for which Northern Trust is the authorized representative.

Ex. A-2-c, Krull Decl., ¶2. Each of the claims objected to by defendants is listed in Exhibit A of Mr. Krull’s declaration. Defendants’ objections should be overruled with respect to each of these claims.

3. Bank of America: 1,803 Claims - \$17,222,953 (Claims Listed on Ex. A-3-a)

On May 10, 2011, Bank of America submitted to Gilardi a proof of claim form accompanied by a cover letter and certification. These documents supported Bank of America’s electronic filing of transactional data for 2,862 individual accounts. Defendants challenge 1,803 claims on this basis. The cover letter stated that “[p]ursuant to Bank of America by-laws, the undersigned [Rich Reardon] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of Bank of America customers.” Ex. A-3-b. The proof of claim form, signed under penalty of perjury, indicated that Bank of America submitted the claim “as fiduciary” for these accounts. *Id.*

On or about November 7, 2011, Mr. Reardon, a Vice President of Bank of America, N.A., provided Gilardi with a declaration further affirming the accuracy of the information submitted by Bank of America. Ex. A-3-c. On March 20, 2012, Mr. Reardon of Bank of America executed a supplemental declaration affirming Bank of America's authority to file each of the claims objected to by defendants. *See* Ex. A-3-d. Defendants' objections should be overruled with respect to these claims.

**4. Wells Fargo Bank, N.A. as Trustee: 1,814 Claims - \$13,167,772
(Claims Listed on Ex. A-4-a)**

On March 29, 2011, Wells Fargo Bank, N.A. submitted to Gilardi an encrypted electronic file on a CD-ROM containing transactional data for 2,487 accounts, accompanied by a cover letter, proof of claim form and certification. Ex. A-4-b. Defendants challenge 1,814 claims on this basis. On October 12, 2011, Wells Fargo provided Gilardi with the declaration of Gail Richardson, an Assistant Vice President of Wells Fargo Bank, N.A. Ex. A-4-c. Ms. Richardson affirmed that Wells Fargo Bank, N.A. filed electronic claims in Household for its custodial accounts. She declared that:

Wells Fargo filed these claims as the Trustee for these accounts. Wells Fargo has the custodial authority to file these claims.

Ex. A-4-c, Richardson Decl., ¶2. Gilardi prepared Ex. A-4-d to provide the claim number for each claim submitted by Wells Fargo Bank, N.A. and compare it with the associated electronic data and account information set forth on the CD-ROM. Each claim objected to by defendants is set forth on this list. Defendants' objections should be overruled with respect to any claims filed by Wells Fargo Bank, N.A.

5. USBank: 289 Claims - \$7,921,079 (Claims Listed on Ex. A-5-a)

USBank submitted claims electronically on behalf of 920 individual accounts, accompanied by a cover letter, proof of claim form and certificate on March 29, 2011. Ex. A-5-b. Defendants challenge 289 claims on this basis. USBank's cover letter, signed by Vice President Scott Olson,

confirmed that, “[p]ursuant to USBank’s by-laws, the undersigned is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of USBank’s customers.” *Id.* On or about October 24, 2011, USBank provided Gilardi with a declaration signed by USBank Class Actions Manager, Stephanie Storch, and Vice President Scott Olson, that affirmed the accuracy of the electronic data previously submitted and stating:

Attached hereto as Exhibit A is a list of each claim filed by U.S. Bank electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. U.S. Bank filed each of these claims on behalf of a client or customer for which U.S. Bank is the current, authorized representative. U.S. Bank, NA is the authorized filer for these claimants, as stated in the executed trust agreements on file with U.S. Bank’s trust administrators.

Ex. A-5-c, Olson Decl., ¶2. Exhibit A to the USBank declaration lists each claim objected to by defendants. Defendants’ objections should be overruled with respect to any claims filed by USBank.

**6. Chicago Clearing Corporation: 728 Claims - \$5,904,196
(Claims Listed on Ex. A-6-a)**

Chicago Clearing Corporation (“CCC”) filed a master proof of claim form on behalf of its clients on or about May 23, 2011. Ex. B-2-b; Ex. A-6-b. CCC supplemented this filing with additional information on July 13, 2011 and September 14, 2011. Both supplemental filings were accompanied by a cover letter signed by officers of CCC stating: “[p]ursuant to Chicago Clearing Corporation’s by-laws, the undersigned is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of Chicago Clearing Corporation’s customers.” *Id.* The September 14, 2011 submission also included Assignment and Agency Agreements, demonstrating CCC’s authority to file claims for 89 of CCC’s customers that filed claims in this action. Ex. A-6-c. By executing the Assignment and Agency Agreement, each of CCC’s 89 customers provided CCC with “full power and authority to act” on its behalf and “authorize[d] CCC to take any action

necessary or advisable in CCC's judgment to prepare, file, accept and process securities claims"

Id. These Assignment and Agency Agreements cover all but two claims objected to by defendants.

On or about November 18, 2011, CCC also provided Gilardi with affidavits from the following clients:

Austin Trust Company	Koplow Family
Bank of the West	Legacy Banks
Bankers Trust Company	Macatawa Bank
Borel Private Bank & Trust Co.	Mission Management & Trust Co.
Brown Advisory	Wealth Management Group of Monroe Bank & Trust
Cape Ann Savings Bank	National Bank of Indianapolis
CCM Investment Advisors	North American Management Corp.
Central Bank & Trust Co.	Optimum Investment Advisors
Central Trust and Investment Company	Otter Creek Management, Inc.
Chemung Canal Trust Company	Paragon Investment Management Inc.
Michael Osher	Pekin Singer Strauss Asset Management
Citizens & Northern Bank	Peoples Bank
Dowling & Yahnke LLC	Progressive Bank
East Texas National Bank	Renasant Bank
Exchange Bank Trust Department	Sapphire Partners
First American Bank	Dickey and Company
First Citizens Trust Company	Spears Abacus Advisors LLC
First County Bank	Stratton Management Company
First Dakota National Bank	TCA Trust Corp. America
First Derivative Traders	Texas Bank & Trust Co.
First Federal Bank of the Midwest	The North Side Bank & Trust Co.
Frandsen Bank & Trust	Tompkins Investment Services
Freestone Capital Management	Trent Capital Management
Harold C. Brown & Co., LLC	Trust Company of the South
Haywood Securities Inc.	Union Savings Bank
High Point Bank and Trust Company	Wakley & Robertson Inc.
Homrich & Berg, Inc.	Waters, Parkerson & Co., LLC
Horwitz & Associates	Waukesha State Bank
J&B Venture Capital Inc.	Wealth Trust Fairport LLC
J.A. Glynn & Co.	West Bank
Jefferson Bank	West Coast Trust
Johnston Lemon Asset Management	ZiaTrust Inc.

Ex. A-6-d. The Assignment and Agency Agreements for CCC's 89 clients and the affidavits for CCC's 64 clients demonstrate that CCC was authorized to file claims on behalf of 726 of the 728 claims objected to by defendants (the two claims missing such documentation total approximately

\$1,100). Ex. A-6-c; Ex. A-6-d. Defendants' objections should be overruled as to all of the CCC claims.

7. State Street Bank & Trust: 72 Claims - \$5,549,149 (Claims Listed on Ex. A-7-a)

On March 31, 2011, State Street Bank & Trust Company submitted a cover letter, proof of claim form, a CD-ROM with electronic data and a certification on behalf of 877 accounts. Ex. A-7-b. Defendants object to 72 of these claims on this basis. The cover letter, signed by Assistant Vice President Alyson Grossberg, affirmed that “[p]ursuant to State Street Bank & Trust Company by-laws, the undersigned is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of State Street Bank & Trust Company’s customers.” *Id.* On or about October 21, 2011, State Street submitted a declaration from State Street Bank & Trust Company Vice President, Arthur Pelissier, stating:

Attached hereto as Exhibit A is a list of each claim filed by State Street electronically in Household. I confirm that it references each of the Household claims my company filed electronically. State Street filed each of these claims on behalf of a client or customer for which State Street was the authorized representative. State Street was the authorized filer for these claimants because we are either the Trustee or Custodian for each of these claimants.

Ex. A-7-c, Pelissier Decl., ¶2. Each of the claims challenged by defendants is listed on Exhibit A to Mr. Pelissier’s declaration. Defendants’ objections should be overruled as to these claims.

8. First Manhattan: 221 Claims - \$5,323,951 (Claims Listed on Ex. A-8-a)

On April 26, 2011, First Manhattan submitted a cover letter, master proof of claim form and CD-ROM for 649 accounts. Ex. A-8-b. Defendants object to 221 of these claims on this basis. In the cover letter, the Chief Financial Officer of First Manhattan represented that the filing was being made “on behalf [of] our clients.” *Id.* On or about November 1, 2011, First Manhattan submitted a declaration signed by Ms. Kalleff affirming that First Manhattan had filed the claims on behalf of a

client or customer. Ex. A-8-c. On March 26, 2012, First Manhattan provided a supplemental declaration from Ms. Kallem affirming the firm's authority to file claims on behalf of the accounts identified in Exhibit A to that declaration. Ex. A-8-d. Exhibit A includes each claim challenged by defendants. Defendants' objections should be overruled as to these claims.

9. SunTrust: 325 Claims - \$4,189,537 (Claims Listed on Ex. A-9-a)

On March 31, 2011, SunTrust provided Gilardi with a cover letter, master proof of claim form, corporate resolution and electronic data on behalf of 522 accounts. Ex. A-9-b. Defendants object to 325 of these claims on this basis. In the cover letter, SunTrust affirms that "[p]ursuant to SunTrust Bank's by-laws, the undersigned [Rick Trowbridge, Corporate Actions/Class Actions Manager] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of SunTrust Bank's customers." *Id.* Defendants' objections to the claims filed by SunTrust on behalf of its customers should be overruled.

10. JPMorgan-Lockbox: 38 Claims - \$2,025,351 (Claims Listed on Ex. A-10-a)

On April 1, 2011, JPMorgan submitted to Gilardi electronic data for claims on behalf of 362 individual accounts accompanied by a cover letter and a master proof of claim form. The cover letter states that "[p]ursuant to JPMorgan's by-laws, the undersigned [Sanjay Ghuliani, Vice President, Class Action Department] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of JPMorgan's customers." Ex. A-10-b. On April 19, 2011, JPMorgan submitted an additional e-file along with a cover letter and proof of claim form for another 17 accounts. Again, the cover letter confirmed that "[p]ursuant to JPMorgan's by-laws, the undersigned [Sachin Goyal, Assistant Vice President, Class Action Department] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of JPMorgan's customers." *Id.* On May 20, 2011, JPMorgan submitted electronic data for an

additional four accounts to Gilardi accompanied by a cover e-mail, cover letter and master proof of claim form. The cover letter again stated that “[p]ursuant to JPMorgan’s by-laws, the undersigned [Lilly Nickerson, Vice President, Class Action Department] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of JPMorgan’s customers.”

Id. In total, defendants object to 38 claims filed by JPMorgan Lockbox. Finally, on or about November 29, 2011, JPMorgan provided Gilardi with a declaration executed by JPMorgan Vice President Phillip C. Roy, affirming that:

Attached hereto as Exhibit A is a list of each claim filed [by] JPMorgan electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. JPMorgan filed each of these claims on behalf of a client or customer for which JPMorgan is the current, authorized representative. JPMorgan is the authorized filer for these claimants because we are the Custodian/Trustee for the accounts contained in our electronic file submission.

Ex. A-10-c, Roy Decl., ¶2. Each of the 38 claims objected to by defendants are identified in Exhibit A to the Roy declaration. Defendants’ objections to these claims should be overruled.

11. State Street Bank/IBT Legacy: 45 Claims - \$1,851,771 (Claims Listed on Ex. A-11-a)

On March 30, 2011, State Street Bank/IBT Legacy submitted to Gilardi a cover letter, master proof of claim form and certificate of authorization for 496 accounts, accompanied by electronic data for those accounts. Ex. A-11-b. The cover letter affirmed that “[p]ursuant to State Street Bank/IBT Legacy by-laws, the undersigned [Assistant Vice President, Alyson Grossberg] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of Investors Bank & Trust clients.” *Id.* On or about October 21, 2011, State Street submitted a declaration to Gilardi, executed by State Street Vice President, Arthur Pelissier, affirming:

Attached hereto as Exhibit A is a list of each claim filed by State Street electronically in Household. I confirm that it references each of the Household claims my company filed electronically. State Street filed each of these claims on behalf of a client or customer for which State Street was the authorized

representative. State Street was the authorized filer for these claimants because we are either the Trustee or Custodian for each of these claimants.

Ex. A-11-c, Pelissier Decl., ¶2. Each of the 45 claims that are objected to by defendants are identified in Exhibit A to the Pelissier declaration. Defendants' objections to these claims should be overruled.

12. KeyBank N.A.: 179 Claims - \$1,631,325 (Claims Listed on Ex. A-12-a)

On March 28, 2011, KeyBank N.A. submitted electronically to Gilardi a diskette containing a cover letter, master proof of claim form and certification on behalf of 1,022 accounts. Ex. A-12-b. The cover letter stated that “[p]ursuant to Key Bank’s by-laws, the undersigned [Corporate Actions Analyst Erich T. Andrews] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of Key Bank’s customers.” *Id.* On or about December 2, 2011, KeyBank provided Gilardi with a declaration, executed by KeyBank N.A. Vice President Roland S. MacDonald, affirming that:

Attached hereto as Exhibit A is a list of each claim filed [by KeyBank N.A.] electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. KeyBank N.A. filed each of these claims on behalf of a client or customer for which KeyBank N.A. is the current, authorized representative. KeyBank N.A. is the authorized filer for these claimants because of our fiduciary duty as trustee, investment manager, custodian, or agent.

Ex. A-12-c, MacDonald Decl., ¶2. Each of the KeyBank claims to which defendants objected are identified in Exhibit A to the MacDonald declaration. *Id.* Defendants' objections as to claims submitted by KeyBank N.A. should be overruled.

13. J.P. Morgan Asset Management-Newark: 6 Claims - \$1,091,497 (Claims Listed on Ex. A-13-a)

On April 1, 2011, J.P. Morgan Asset Management electronically submitted a cover letter, master proof of claim form and data for 168 accounts. Ex. A-13-b. The cover letter stated that

“[t]he undersigned [Greg Clark, Associate of JPMorgan Asset Management] is authorized to transact all duties necessary in the filing and processing of class action claims on behalf of JPMorgan Chase’s clients.” *Id.* Gilardi has confirmed that five (claim nos. 615143, 615217, 615251, 615156 and 615170) of the six challenged claims have been withdrawn and should be removed from its December 22, 2011 report. Defendants’ objection to the sixth claim (claim no. 615148) submitted by J.P. Morgan Asset Management-Newark should be overruled based on the representations made by J.P. Morgan Asset Management.

Finally, defendants’ specific attacks on BNY Mellon, Northern Trust Company and State Street Bank are without merit. Defendants point to duplicate claims made by Putnam, Capital Guardian and Oppenheimer as support for their argument that BNY Mellon and Northern Trust somehow lack authority to file claims on behalf of their clients and customers. To the contrary, the fact that three of BNY Mellon and Northern Trust’s customers *also* may have filed claims demonstrates that these claimants wish to recover for their losses. Despite defendants’ attempts to conflate duplicate claims and claims lacking authority, they are wholly separate.¹ Nor did defendants ever bother to depose either BNY Mellon or Northern Trust to question them about their authority to file claims on behalf of their clients.² Thus, the undisputed evidence shows that BNY Mellon and Northern Trust (and every other custodian bank) filed claims on behalf of victims of defendants’ fraud that wished to recover in the litigation. No contrary evidence exists.³

¹ Of course, defendants do not – and cannot – assert that these duplicate claims have not been reconciled and eliminated through the claims administration process.

² Defendants’ dilatory tactics with respect to the depositions of BNY Mellon and Northern Trust are chronicled in Plaintiffs’ Status Conference Report at 11-13 [Dkt. No. 1766].

³ Indeed, when asked at their depositions, representatives from several class members testified that their custodian banks had authority to file claims on their behalf. *See, e.g.*, Deposition

In fact, defendants just repeat the same argument that the Court already addressed – and rejected – in its August 16, 2011 Order:

The purpose of the claims submission process is to identify the true victims of the fraudulent conduct the jury has determined the defendants committed and allow such victims a fair and reasonable opportunity to present their claims for redress. If, for example, a claim is filed by a custodian whose authorization to file on behalf of a victim has lapsed, but the victim desires to file substantially the same claim, there is no harm in accommodating the victim's desire to file its claim either independently through another custodian or to ratify the claim already filed. The defendant will already have been apprised of the claim amount and the party on whose behalf the claim is being made and will have the opportunity to verify or disprove the substance of the claim through the claims adjudication process. The Court sees no reason to summarily reject all such claims because of what is likely no more than confusion or overlap in authorization.

August 16, 2011 Order at 2 [Dkt. No. 1775].

Putnam, Oppenheimer and Capital Guardian all ratified their claims at their respective depositions. Defendants fail to identify any other class members who did not give authority to custodian banks to file claims on their behalf, much less class members who disavowed claims filed on their behalf by custodian banks. Accordingly, defendants' argument is no more persuasive now than when they made it the first time.

Defendants' contention that State Street – who defendants did depose – lacked authority to file claims on behalf of its customers is without merit. In sworn deposition testimony, State Street's Rule 30(b)(6) representative, Arthur Pelissier, explained that State Street had authority to file claims on behalf its customers, for whom State Street had “a fiduciary responsibility as trustee.” Deposition Transcript of Arthur Pelissier at 8:9-9:14 (Ex. G). Indeed, State Street has a written agreement with

Transcript of Ho Hin Wah at 28:8-32:15 (State Street and BNY Mellon authorized to file claims); Deposition Transcript of Martin A. Romo at 75:12-77:22 (State Street and JP Morgan authorized to file claims); Deposition Transcript of Mike Majure at 98:20-99:13 (JP Morgan authorized to file claims); Deposition Transcript of Tommy Plymale at 55:8-56:18 (United Bank authorized to file claims). *See* Exs. F, H-J.

each of its customers that authorizes State Street to file claims in this action. *Id.* at 17:21-25. This agreement provides State Street with “standing instructions to file class action claims in every case . . . any customer’s trades make it eligible to file a claim.” *Id.* at 26:1-6. Despite exhaustive discovery, defendants have no evidence to the contrary.

B. Response to Defendants’ Arguments that Claims Contain Incomplete or Defective Proofs of Claim

1. Claims Filed by Beneficial Owners that Defendants Allege Are Without Supporting Documentation of Their Transactions: 351 Claims - \$55,601,681

Defendants challenge 351 claims filed by beneficial owners that they assert fail to include supporting documentation of their transactions. Defendants’ objections fail for four reasons. First, 54 class members, contrary to defendants’ assertions, provided documentary support for their claims. Second, 54 of the challenged claims were submitted by electronic filers, who provided declarations attesting to the accuracy of the data submitted in connection with their claims. Third, for another 15 challenged claims, 3 of the filers provided evidentiary support for the accuracy of their data in documents that accompanied their proof of claim forms. Finally, the remaining 228 class members, whose claims are challenged by defendants in this category, are primarily paper filers who attested to the accuracy of their transactional data in their proof of claim forms.

a. Class Members Who Provided Supporting Documentation (54 Claims - \$3,749,458)

Plaintiffs disagree with defendants’ challenges to 54 claims under this category. In fact, 54 of the class members challenged here by defendants provided supporting documentation. These class members are identified at Ex. B-1-a. *See* Ex. K, McDermott Decl., ¶2. Defendants’ objections to these class members’ claims should be overruled.

**b. Electronic Filers Who Provided Declarations (54 Claims
- \$47,466,276)**

Many of the electronic filers challenged by defendants under this category actually provided declarations affirming the accuracy of, and laying a foundation for, the data set forth in their electronic filing. Attached as Exhibits B-1-b-1-a through B-1-b-8-a for the Court's consideration are declarations submitted by the following entities:

**(1) MFS Investment Management: 15 Claims -
\$35,253,368**

MFS Investment Management ("MFS") submitted 15 claims that defendants challenge. The MFS claims are listed on Ex. B-1-b-1-a. MFS filed individual proof of claim forms for each claim accompanied by a cover letter dated May 23, 2011 and a May 19, 2011 letter from Christopher D. Frier, Vice President, Global Investment Support. In his letter, Mr. Frier states:

Please use this letter as confirmation that Massachusetts Financial Services Company d/b/a MFS Investment Management, acting as advisor for the MFS funds listed on the accompanying cover letter, made the buys and sells listed on the MS Excel spreadsheet entitled "Household Securities Litigation, Lead Case No. 02-C-5893, Trade History and Holdings from MFS Investment Management" which has been sent to you by Arlene Cox via e-mail to Edata@Gilardi.com. The Excel spreadsheet contains the complete trade history and holdings for the claimants.

Please also note the holdings were obtained from computerized records and, to the best of our knowledge, are a true and accurate record of the holdings of the claimants as of the dates requested. This information was obtained by retrieving historical data from MFS's computerized records.

See Ex. B-1-b-1-b.

On or about August 12, 2011, Mr. Frier provided a declaration to Gilardi further affirming the accuracy of the data submitted by MFS:

With respect to each of the claims listed on Exhibit A, MFS submitted an electronic data file to Gilardi as part of the MFS Funds' claims. As required by the Court-approved Proof of Claim in Household, the submitted data file corresponding to each claim is a schedule of all of the transactions made by that claimant in the eligible securities of Household between March 23, 2001 and January 8, 2003, inclusive.

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data. The data included with this submission was extracted from MFS' internal record keeping system, which is comprised of trade and accounting data relating to the portfolios managed by MFS, including the MFS Funds. In the ordinary course of business, MFS extracts this type of data by retrieving the data from computerized historical archive records.

The schedule of transactions submitted in Household was prepared as part of the MFS Funds' claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-1-b-1-c, Frier Decl., ¶¶3-5. In their objections, defendants fail to address the evidence provided by MFS. In light of this record, and defendants' utter failure to provide a realistic basis for their position, defendants' objections to the \$35,253,368 in claims submitted by MFS should be overruled.

(2) Invesco: 2 Claims - \$2,430,293

On May 23, 2011, Invesco submitted a disk containing electronic data for 17 individual fund accounts, accompanied by a cover letter and master proof of claim form. Ex. B-1-b-2-a. Defendants challenge claim nos. 650594 and 650602 herein. The cover letter stated that the "information provided is, to the best of our knowledge, complete, accurate and includes all transactions of each unique fund during the class period." *Id.* Further, on November 3, 2011, Invesco provided Gilardi with a supplemental declaration by Peter A. Davidson, the Assistant Secretary of Invesco Charter Fund, in support of its claims, including claim nos. 650594 and 650602, which are now challenged by defendants. Ex. B-1-b-2-b. The declaration stated:

Attached hereto as Exhibit A is a list of each claim electronically filed by the Claim Processing Group of AIM Counselor Series Trust (Invesco Counselor Series Trust), AIM Equity Funds (Invesco Equity Funds), AIM Variable Insurance Funds (Invesco Variable Insurance Funds), and Invesco Advisors, Inc. I have reviewed that list and confirmed that it references each of the Household claims filed and submitted electronically. Invesco's Claim Processing Group filed each of these claims on behalf of the funds for which the entities are the owners and representatives. Peter

A. Davidson is the authorized officer for these funds and has the power to transact on all duties necessary in the filing and processing of class action claims.

With respect to each of the claims listed on Exhibit A, the Claim Processing Group submitted an electronic data file to the claims administrator, Gilardi & Co., LLC (“Gilardi”), as part of its claim. As required by the Court-approved Proof of Claim in Household, the submitted data file corresponding to each claim is a schedule of all of the transactions made by that claimant in the eligible securities of Household between March 23, 2001 and January 8, 2003, inclusive.

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from Invesco’s internal record keeping system, which is comprised of historical transaction reports. In the ordinary course of business, the Claim Processing Group downloads the reports to excel format and extracts the data from the historical reports and places the information on the electronic spreadsheet. The information provided is, to the best of our knowledge, complete, accurate, and includes all transactions of each unique fund during the class period. Thereafter, the records were kept or maintained in the normal course of Invesco’s regularly-conducted activity, and it is the regular practice of the Claim Processing Group to keep such records.

The schedule of transactions submitted in Household was prepared as part of Invesco’s claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-1-b-2-b, Davidson Decl., ¶¶2-5. In light of Invesco’s affirmation of its electronic data, defendants’ objections should be overruled as to claim nos. 650594 and 650602.

(3) Timber Hill: 1 Claim (No. 633177) - \$1,632,006

Timber Hill LLC submitted one proof of claim form on May 11, 2011, accompanied by a cover letter and electronic data supporting the claim. The cover letter stated that the data was “to the best of our knowledge, complete and accurate, and includes all transactions of each unique beneficial owner during the class period.” Ex. B-1-b-3-a. Thereafter, Timber Hill provided a declaration executed by the firm’s Associate General Counsel and Chief Compliance Officer, Bradford L. Jacobowitz, which stated:

Timber Hill filed its claim electronically in Household. I have reviewed the data submitted and confirmed that it accurately encompasses our claim. As required

by the Court-approved Proof of Claim in Household, the submitted data is a schedule of all of the transactions made by Timber Hill in the eligible securities of Household between March 23, 2001 and January 8, 2003, inclusive.

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time these transactions occurred. The data included with this submission was extracted from Timber Hill's internal record keeping system. Timber Hill's personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of Timber Hill's regularly-conducted activity, and it is the regular practice of Timber Hill to keep such records.

The schedule of transactions submitted in Household was prepared as part of Timber Hill's claim submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-1-b-3-b, Jacobowitz Decl., ¶¶2-4. Therefore, defendants' objection to Timber Hill's claim should be overruled.

(4) Principal Financial Group: 8 Claims - \$2,699,544

Defendants challenge eight claims filed by Principal Financial Group ("Principal") under this category. The Principal claims are listed on Ex. B-1-b-4-a. On April 13, 2011, Principal submitted a disk containing electronic data for 12 individual fund accounts, accompanied by a cover letter and master proof of claim form. Ex. B-1-b-4-b. The cover letter stated the "information submitted is, to the best of our knowledge, complete and accurate and includes all transactions of each unique beneficial owner during the class period." *Id.* On November 14, 2011, Principal provided Gilardi with a supplemental declaration by Layne A. Rasmussen, Vice President, Controller and Chief Financial Officer of Principal, in support of its claims, including claim nos. 625713, 625715 and 625718-625723, challenged by defendants. Ex. B-1-b-4-c. The declaration stated:

Attached hereto as Exhibit A is a list of each claim filed by Principal Funds electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. Principal Funds filed each of these claims on behalf of a client or customer for which Principal

Funds is the current, authorized representative. Principal Funds is the authorized filer for these claimants because I am an officer of Principal Funds.

With respect to each of the claims listed on Exhibit A, Principal Funds submitted an electronic data file to the claims administrator, Gilardi & Co. LLC (“Gilardi”), as part of its claims. As required by the Court-approved Proof of Claim in Household, the submitted data file corresponding to each claim is a schedule of all of the transactions made by that claimant in the eligible securities of Household between March 23, 2001 and January 8, 2003, inclusive.

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from Principal Funds’ internal record keeping system, which is comprised of the InvestOne accounting system. In the ordinary course of business, Principal Funds extracts this type of data by electronic means. Principal Funds’ personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of Principal Funds’ regularly-conducted activity, and it is the regular practice of Principal Funds to keep such records.

The schedule of transactions submitted in Household was prepared as part of Principal Funds’ claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-1-b-4-c, Rasmussen Decl., ¶¶2-5. Therefore, defendants’ objections to the eight claims submitted by Principal should be overruled.

(5) JPMorgan Clearing Corp.: 10 Claims - \$1,916,203

Defendants challenge ten claims filed by JPMorgan Clearing Corporation which are listed on Ex. B-1-b-5-a. On April 28, 2011, JPMorgan Clearing Corporation submitted to Gilardi electronic data, a cover letter and a master proof of claim form in support of 50 proprietary accounts. Ex. B-1-b-5-b. The cover letter, signed by Vice President Nancy Sevilla, indicated that the “information submitted is, to the best of our knowledge, complete and accurate, and includes all transactions of each unique account during the class period.” *Id.* On or about November 10, 2011, JPMorgan Clearing Corporation also provided a declaration executed by Vice President Nimeh Barakat in

support of its electronic data, including the data for the ten claims to which defendants now object.

Ex. B-1-b-5-c. The Barakat declaration states:

Attached hereto as Exhibit A is a list of each claim filed by J.P. Morgan Clearing Corp. electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. J.P. Morgan Clearing Corp. filed each of these claims on behalf of a client or customer for which J.P. Morgan Clearing Corp. is the current, authorized representative. J.P. Morgan Clearing Corp. is the authorized filer for these claimants on behalf of proprietary accounts.

With respect to each of the claims listed on Exhibit A, J.P. Morgan Clearing Corp. submitted an electronic data file to the claims administrator, Gilardi & Co. LLC ("Gilardi"), as part of its claims. As required by the Court-approved Proof of Claim in Household, the submitted data file corresponding to each claim is a schedule of all of the transactions made by that claimant in the eligible securities of Household between March 23, 2001 and January 8, 2003, inclusive.

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from J.P. Morgan Clearing Corp. internal record keeping system, which is comprised of [the] internal database. In the ordinary course of business, J.P. Morgan Clearing Corp. extracts this type of data by internal data base. J.P. Morgan Clearing Corp. personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of J.P. Morgan Clearing Corp. regularly-conducted activity, and it is the regular practice of J.P. Morgan Clearing Corp. to keep such records.

The schedule of transactions submitted in Household was prepared as part of J.P. Morgan Clearing Corp. claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-1-b-5-c, Barakat Decl., ¶¶2-5. Defendants' objections to the ten JPMorgan Clearing Corporation claims should be overruled.

**(6) ING Investment Management: 12 Claims -
\$2,119,783**

Defendants challenge 12 claims submitted by ING Investment Management. The 12 ING Investment Management claims are listed on Ex. B-1-b-6-a. On May 19, 2011, ING submitted a disk containing electronic data for 20 individual accounts, accompanied by a master proof of claim

form and a cover letter. Ex. B-1-b-6-b. The cover letter stated the “information submitted is to the best of our knowledge, complete and accurate, and includes all transactions of each unique beneficial owner during the class period.” *Id.*

On November 30, 2011, ING Investment Management provided Gilardi with a supplemental declaration by Susan L. Syme, Assistant Vice President, Business Support & Operations, in support of the claims which were challenged by defendants herein. Ex. B-1-b-6-c. The declaration stated:

Attached hereto as Exhibit A is a list of each claim filed by ING Investment Management electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. ING Investment Management filed each of these claims on behalf of a client or customer for which ING Investment Management is the current, authorized representative. ING Investment Management is the authorized filer for these claimants because we are the asset manager for the funds.

With respect to each of the claims listed on Exhibit A, ING Investment Management submitted an electronic data file to the claims administrator, Gilardi & Co. LLC (“Gilardi”), as part of its claims. As required by the Court-approved Proof of Claim in Household, the submitted data file corresponding to each claim is a schedule of all of the transactions made by that claimant in the eligible securities of Household between March 23, 2001 and January 8, 2003, inclusive.

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from ING Investment Management’s internal record keeping system, which is comprised of accounting transactions. In the ordinary course of business, ING Investment Management extracts this type of data by querying the database. ING Investment Management’s personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of ING Investment Management’s regularly-conducted activity, and it is the regular practice of ING Investment Management to keep such records.

The schedule of transactions submitted in Household was prepared as part of ING Investment Management’s claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-1-b-6-c, Syme Decl., ¶¶2-5. Defendants’ objections to the claims filed by ING Investment Management should be overruled.

(7) JPMorgan Securities, Inc.: 4 Claims - \$443,259

In response to defendants' objection to claim nos. 633593, 633594, 633610 and 633606, JPMorgan Securities LLC provided the declaration of Vice President Hal Levine, which states:

Attached hereto as Exhibit A is a list of each claim filed by JPMorgan Securities LLC electronically in Household. I have reviewed that list and confirmed that it references each of the Household claims my company filed electronically. JPMorgan Securities LLC filed each of these claims on behalf of a client or customer for which JPMorgan Securities LLC is the current, authorized representative. JPMorgan Securities LLC is the authorized filer for these claimants because the[y] are all proprietary accounts.

With respect to each of the claims listed on Exhibit A, JPMorgan Securities LLC submitted an electronic data file to the claims administrator, Gilardi & Co. LLC ("Gilardi"), as part of its claims. As required by the Court-approved Proof of Claim in Household, the submitted data file corresponding to each claim is a schedule of all of the transactions made by that claimant in the eligible securities of Household between March 23, 2001 and January 8, 2003, inclusive.

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from JPMorgan Securities LLC internal record keeping system, which is comprised of transactional data and histories. In the ordinary course of business, JPMorgan Securities LLC extracts this type of data by gathering all the trade data from a set period for a given security. JPMorgan Securities LLC's personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of JPMorgan Securities LLC's regularly-conducted activity, and it is the regular practice of JPMorgan Securities LLC to keep such records.

The schedule of transactions submitted in Household was prepared as part of JPMorgan Securities LLC's claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-1-b-7-a, Levine Decl., ¶¶2-5. Defendants' objections to the four JPMorgan Securities, Inc. claims should be overruled.

(8) Morgan Stanley: 2 Claims - \$971,820

Morgan Stanley (“MS”) submitted two claims that defendants challenge. The challenged MS claims are claim nos. 633470 and 633474. MS provided an affidavit in support of each claim. The affidavit, executed by the firm’s Executive Director, Bhavesh Soni, states:

Morgan Stanley as Advisors confirms that all transactions we listed on our claim(s) accurately reflect the data we obtained regarding the underlying transactions. Additionally, we confirm that the underlying transactions were identified, at or near the time, each claim was prepared.

Morgan Stanley as Advisors confirms representations of the underlying transactions were identified in the regular course of business and by following company protocol.

Ex. B-1-b-8-a, Soni Decl., ¶¶4-5. Defendants’ objections to these two MS claims should be overruled.

c. Electronic Filers Who Attested to the Accuracy of Their Data (15 Claims - \$962,980)

In addition to the electronic filers who provided either documentation supporting their claims or declarations affirming the accuracy of their claims, several other electronic filers provided cover letters affirming the accuracy of the electronic data submitted in support of their claims. Again, defendants have simply lodged generic objections to these claims, without addressing the substantive record.

(1) Goldman Sachs Execution & Clearing: 5 Claims - \$432,112

Defendants challenge five claims (claim nos. 651129, 651120, 651123, 651122 and 651126) submitted by Goldman Sachs Execution & Clearing (“GSEC”). GSEC submitted electronic data for 12 accounts to Gilardi, which was accompanied by a cover letter, master proof of claim form and written consent form. The GSEC cover letter states:

The information submitted is, to the best of our knowledge, complete and accurate. This includes all transactions in each proprietary account during the class period and has been extracted directly from our proprietary database.

Ex. B-1-c-1-a.

Defendants have submitted no evidence contradicting GSEC's representations and their objections to these five claims should be overruled.

(2) BNP Paribas: 9 Claims - \$521,292

Defendants have objected to nine claims submitted by BNP Paribas. The nine BNP Paribas claims are listed on Ex. B-1-c-2-a. BNP Paribas submitted electronic data for 16 accounts to Gilardi, which was accompanied by a cover letter and proof of claim form. The March 8, 2011 cover letter stated that "[t]he information submitted is, to the best of our knowledge, complete and accurate, and includes all transactions of each unique beneficial owner during the class period." Ex. B-1-c-2-b.

Defendants have submitted no evidence contradicting BNP Paribas' representations and their objections to these claims should be overruled.

(3) Davis Selected Advisers: 1 Claim - \$9,576

Defendants have objected to one claim (claim no. 650549) submitted by Davis Selected Advisers, L.P.. Davis Selected Advisers submitted electronic data for 18 accounts to Gilardi, which was accompanied by a cover letter and master proof of claim form. The May 23, 2011 cover letter stated that "[t]he information submitted is, to the best of our knowledge, complete and accurate, and includes all transactions of each unique beneficial owner during the class period." Ex. B-1-c-3-a. On March 26-27, 2012, to put to rest any doubts, Davis Selected Advisers submitted additional documentation in support of this claim to Gilardi.

d. Class Members that Provided a Proof of Claim Form Signed Under Penalty of Perjury (228 Claims - \$3,422,967)

Plaintiffs agree that defendants have correctly identified 228 class members that have submitted a proof of claim form listing their transactions in support of their claim. The claims are listed on Ex. B-1-d-1. The proof of claim form required class members to supply details of their

transactions in Household stock in the section of the form entitled “Schedule of Transactions in Household Common Stock.” Each of these class members provided this information.⁴ Thereafter, the claim form stated: “Brokers’ confirmation or other documentation of your transactions in Household common stock should be attached to your claim. Failure to provide this documentation could delay verification of your claim and result in rejection of your claim.” Proof of Claim Form at 2. The submission of the claim form, signed under penalty of perjury, should be sufficient to preserve these small claims. Defendants’ objections should be overruled.

2. Claims Filed by Third-Party Claims Filing Services that Defendants Allege Are Without Supporting Documentation of the Beneficial Owners’ Transactions: 13,844 Claims - \$163,018,409

Defendants object to 13,844 claims that they assert were submitted by 11 third-party filing services who allegedly failed to provide supporting documentation of the beneficial owners’ transactions. Defendants ignore a host of declarations submitted by either the third-party filers or the underlying beneficial owners attesting to the accuracy of the electronic data submitted in support of these claims. Further, defendants object to other claims for which third-party filers submitted supporting documentation. More importantly, defendants never substantively address the specific nature of their objections or the evidentiary record developed to date. Rather, they simply submit a list of 13,844 claims, provide no basis for their arguments on a claim-by-claim basis and fail to contest the record. Failing to provide any substantive objections – other than the generic claim of “without supporting documentation” which is belied by the record – all of defendants’ objections

⁴ Susquehanna Investment Group (“Susquehanna”) filed its claims electronically. Defendants challenge 21 of Susquehanna’s claims herein, which total \$1,937,521 of the claims challenged in this section. Susquehanna submitted individual proof of claim forms for each of these claims, accompanied by documentation demonstrating their authority to file on behalf of these accounts. *See* Ex. B-1-d-2.

should be overruled as to these claims. However, plaintiffs will address the generic objections by pointing the Court to the specific evidence providing support for these claims.

a. RiskMetrics

Defendants object to 12,447 claims submitted by RiskMetrics on behalf of its clients.⁵ Defendants fail to acknowledge that RiskMetrics and its underlying clients submitted declarations that support the electronic data for in excess of 12,000 of these claims and provided documents or other evidence in support of the remaining claims, as set forth herein.

**(1) RiskMetrics: On Behalf of All Clients: 336
Claims - \$94,950,180**

Defendants have challenged under this subheading 336 claims submitted by RiskMetrics on behalf of various clients. The vast majority of the electronic data submitted by RiskMetrics on behalf of these clients has been supported by declarations that provide a foundation for the authenticity and business record status of the data, or supporting documents or certifications attesting to the underlying data. Defendants completely ignore this record.

The following RiskMetrics' clients have submitted supporting declarations:

⁵ Defendants object to claims submitted by RiskMetrics. The documentation relating to these claims uses the names RiskMetrics, ISS and SCAS at various points in time. By way of explanation, Securities Class Action Services, LLC ("SCAS") is a wholly-owned subsidiary of Institutional Shareholder Services Inc. ("ISS"). ISS (including SCAS) was acquired by RiskMetrics Group in 2007, when the securities class action business operated under the trade name of RMG or the parent company's name of RiskMetrics Group. In the middle of 2010, MSCI Inc. acquired RiskMetrics Group and then began to operate the securities class action business under the name SCAS or (in some cases) ISS or Institutional Shareholder Services. Today, SCAS remains a wholly-owned subsidiary of ISS, and ISS is a wholly-owned subsidiary of RiskMetrics Group Holdings, LLC, which is a wholly-owned subsidiary of RiskMetrics Group, Inc., which is a wholly-owned subsidiary of MSCI Inc. As a result of these corporate changes over the years, the company's clients have provided it with Authorization Letters granting the authority to file claims on their behalf to RMG, RiskMetrics Group, SCAS, ISS and/or Institutional Shareholder Services. Lead Counsel, following defendants' lead, will use the name "RiskMetrics" interchangeably to refer to all incarnations of this firm.

(a) American Century Investments: 6 Claims - \$15,531,408

American Century Investments provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 625395, 625934, 625387, 625386, 625383 and 625381. The declaration states:

The data contained in the electronic file has been obtained from our internal data system, which is maintained in the normal course of the Company's business. The data has been reviewed and is complete, true, and accurate and includes all transactions during the Class Period.

Ex. B-2-a-1-a, Leach Decl., ¶3.

(b) Deutsche Asset Management: 8 Claims - \$34,928,137

Deutsche Asset Management provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 623319-623320, 623323 and 623336-623340.

The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Deutsche Asset Management's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Deutsche Asset Management and have authorized us to file such claims.

Ex. B-2-a-1-b, Harrigan Decl., ¶4.

(c) John Hancock: 5 Claims - \$3,431,836

John Hancock provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 624847, 624848, 624854, 624859 and 624862. The declaration states:

The data contained in the electronic file has been obtained from our internal data system, which is maintained in the normal course of the Company's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the

time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions during the Class Period.

Ex. B-2-a-1-c, Donohue Decl., ¶3.

(d) Pioneer Investments: 4 Claims - \$350,472

Pioneer Investments provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 623435-623438. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of the Pioneer Funds' business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of the Pioneer funds and have authorized us to file such claims.

Ex. B-2-a-1-d, Sullivan Decl., ¶4.

(e) Russell Investments: 3 Claims - \$925,392

Russell Investments provided two declarations in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 624867, 624885, 624886 and 624888. The first declaration submitted by Russell in support of SSgA Funds clients and customers, states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of SSgA Funds' business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of SSgA Funds and have authorized us to file such claims.

Ex. B-2-a-1-e, Swanson Decl., ¶4. The second declaration, submitted in support of Russell Investment Management Limited clients and customers, states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Russell Investment

Management Limited's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Russell Investment Management Limited and have authorized us to file such claims.

Id.

(f) BlackRock Financial: 7 Claims - \$2,786,445

BlackRock Financial provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 625562, 625565-567, 625569, 625571-625572. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of BlackRock's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of BlackRock and have authorized us to file such claims.

Ex. B-2-a-1-f, Walton Decl., ¶4.

(g) Elliott Associates: 2 Claims - \$468,064

Elliott Associates provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 625397-625398. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Elliott Associates, L.P.'s business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Elliott Associates, L.P. and have authorized us to file such claims.

Ex. B-2-a-1-g, Reinhardt-Gonzales Decl., ¶4.

(h) Standard Life Investments: 3 Claims - \$115,464

Standard Life Investments provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 623260, 623262 and 623264. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Standard Life Investments Funds' business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Standard Life Investment Funds and have authorized us to file such claims.

Ex. B-2-a-1-h, Burns Decl., ¶4.

(i) William Blair: 3 Claims - \$252,525

William Blair provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 624469, 624487 and 624641. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of William Blair's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of William Blair and have authorized us to file such claims.

Ex. B-2-a-1-i, Randall Decl., ¶4.

This declaration is also applicable to other claims submitted by RiskMetrics on behalf of William Blair, as set forth below at §B.2.a.12.

(j) Millenium Partners: 11 Claims - \$654,685

Millenium Partners provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 623573-623574, 623587, 623590-623592, 623594, 623601, 623604-623605 and 623608. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Millenium Partners L.P.'s business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Millenium Partners LP and have authorized us to file such claims.

Ex. B-2-a-1-j, Williams Decl., ¶4.

(k) Thrivent Financial for Lutherans: 1 Claim - \$1,211,716

Thrivent Financial for Lutherans provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim no. 623623. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Thrivent Financial[']s business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Thrivent Financial for Lutherans and have authorized us to file such claims.

Ex. B-2-a-1-k, Guimond Decl., ¶4.

(l) Citadel: 10 Claims - \$3,282,151

Citadel provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 623443, 623445, 623447-623450, 623456-623458 and 623464. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Citadel LLC's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Citadel LLC and have authorized us to file such claims.

Ex. B-2-a-1-l, Newstead Decl., ¶4.

(m) Fifth Third Bank: 9 Claims - \$55,688

Fifth Third Bank provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim nos. 624980, 625007, 625046, 625071, 625088, 625108, 625139, 625193 and 625215. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Fifth Third Bank's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Fifth Third Bank and have authorized us to file such claims.

Ex. B-2-a-1-m, Potter Decl., ¶4.

(n) Moore Capital Management: 1 Claim - \$459,831

Moore Capital Management provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim no. 625594. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Moore Global Investments, Ltd.'s business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Moore Global Investments, Ltd. and have authorized us to file such claims.

Ex. B-2-a-1-n, O'Mahony Decl., ¶4.

(o) Ruane, Cunniff & Goldfarb, Inc.: 219 Claims - \$1,871,335

Defendants objected to two sets of claims submitted by RiskMetrics on behalf of Ruane, Cunniff & Goldfarb. Defendants objected to this first set under a subheading entitled "RiskMetrics on behalf of All Clients." A list of these Ruane, Cunniff & Goldfarb claims is attached at Ex. B-2-a-1-o-1. We address those objections in this section, although both sets of claims are supported by a single declaration.

Ruane, Cunniff & Goldfarb provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf. The declaration states:

The data contained in our spreadsheet has been obtained from our internal data system, which is maintained in the normal course of RCG's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of RCG and have authorized us to file such claims.

Ex. B-2-a-1-o-2, Goldfarb Decl., ¶4.

(p) UBS O'Connor LLC: 1 Claim - \$539,751

UBS O'Connor Global Multi-Strategy Alpha Master Limited provided a declaration in support of the electronic data submitted by RiskMetrics on its behalf for claim no. 625581. The declaration states:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of O'Connor Global Multi-Strategy Alpha Master Limited's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients

and/or customers of O'Connor Global Multi-Strategy Alpha Master Limited and have authorized us to file such claims.

Ex. B-2-a-1-p, Hollenbeck Decl., ¶4.

(q) RiskMetrics' "All Clients" that Provided Certifications or Supporting Documents (5 Claims - \$2,878,478)

Five claims objected to by defendants under this subheading provided either a certification in support of their claims (claim nos. 625309 and 625311) or, contrary to defendants' assertions, provided documentation in support of their claims (claim nos. 625577, 623669 and 625536). Ex. K, McDermott Decl., ¶4. The certification is provided for the Court's review at Ex. B-2-a-1-q.

(r) Remaining RiskMetrics "All Clients" (37 Claims - \$24,889,153)

Defendants challenge 37 other claims filed by RiskMetrics under the subheading "RiskMetrics (on behalf of All Clients)," that are not addressed above. A list of these remaining claims is set forth as Ex. B-2-a-1-r-1. RiskMetrics submitted these claims to Gilardi, among others, accompanied by a master proof of claim form, authorization letters from its clients and a cover letter dated April 5, 2011. RiskMetrics represented that: "I attest that the data contained on our file was obtained directly from SCAS Clients and/or Custodian's internal data retention system and is true and accurate to the best of our knowledge." Ex. B-2-a-1-r-2. Defendants' objections to these claims should be overruled.

(2) RiskMetrics: Merrill Lynch Broadridge: 12,009 Claims - \$20,923,927

RiskMetrics filed claims on behalf of Merrill Lynch Broadridge's client accounts on May 24, 2011. RiskMetrics provided Gilardi with a cover letter, a diskette containing the transactional data, a letter dated February 19, 2010 authorizing RiskMetrics to file on Merrill Lynch's behalf and a sample of Merrill Lynch's agreements with its clients demonstrating its authority to file class action claims. Ex. B-2-a-2-a. On or about November 3, 2011, RiskMetrics supplemented the Merrill

Lynch Broadridge claims by providing Gilardi with a declaration from Robert B. Kroner, Jr., a Director within the Global Business Infrastructure/Controls group at Merrill Lynch. Mr. Kroner attested that he was the authorized Merrill Lynch representative responsible for filing class action claims on behalf of Merrill Lynch clients. Mr. Kroner stated the following about the data submitted to Gilardi:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of MLPF&S's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. I further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of MLPF&S and have authorized us to file such claims.

Ex. B-2-a-2-b, Kroner Decl., ¶4. Merrill Lynch has provided a declaration laying a business record foundation for the 12,009 Broadridge claims. Defendants' objections should be overruled.⁶

(3) RiskMetrics: SunAmerica: 35 Claims - \$11,011,593

RiskMetrics submitted claims on behalf of SunAmerica's accounts on April 13, 2011. The claims were accompanied by a proof of claim form, a diskette with transactional data and a cover letter that stated:

I attest that the data contained on our file was obtained directly from SunAmerica and/or Custodian's internal data retention system and is true and accurate to the best of our knowledge.

Ex. B-2-a-3-a. RiskMetrics also provided Gilardi with a letter dated March 22, 2005 from SunAmerica Asset Management authorizing SCAS (ISS/RiskMetrics) to file claims on behalf of

⁶ A list of the 12,009 challenged Merrill Lynch Broadridge claims are attached as Ex. B-2-a-2-c.

SunAmerica and its client accounts. As such, defendants' objections to the 35 SunAmerica claims, identified in Ex. B-2-a-3-b should be overruled.

(4) RickMetrics: ING IM Dutch Funds: 5 Claims - \$6,335,726

RiskMetrics provided Gilardi with letters dated November 30, 2010 from ING Fund Management B.V. and ING Investment Management Luxembourg S.A. that indicated that ISS was retained to file claims on "our behalf and for our client accounts." On April 6, 2011, RiskMetrics filed claims for six of these ING IM accounts. Ex. B-2-a-4. The proof of claim form was accompanied by a diskette containing transactional data. In the cover letter, ISS stated:

I attest that the data contained on our file was obtained directly from ING IM (EU) and/or Custodian's internal data retention system and is true and accurate to the best of our knowledge.

Id. Defendants' objections to these claims (claim nos. 625652 and 625654-625657) should be overruled.

(5) RiskMetrics: PGGM: 5 Claims - \$3,822,468

RiskMetrics filed six claims for PGGM accounts. The claims were supported by a May 11, 2011 letter from PGGM stating that it had retained ISS to file claims on behalf of PGGM and its client accounts. The claim form was accompanied by a diskette containing transactional data and a cover letter. Ex. B-2-a-5. The cover letter stated:

I attest that the data contained on our file was obtained directly from PGGM and/or Custodian's internal data retention system and is true and accurate to the best of our knowledge.

Id. Defendants' objections to the PGGM claims (claim nos. 652523-652525 and 652527-652528) submitted by RiskMetrics/ISS should be denied.

(6) RiskMetrics: PEERS Missouri: 2 Claims - \$765,992

The Public Education Employee Retirement System of Missouri (“PEERS Missouri”), which filed through RiskMetrics/ISS, provided a declaration in support of its electronically filed claims. The declaration, executed by Craig A. Husting, affirms the following about data submitted to Gilardi:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of The Public Education Employee Retirement System of Missouri’s business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of The Public Education Employee Retirement System of Missouri and have authorized us to file such claims.

Ex. B-2-a-6, Husting Decl., ¶4. Defendants’ objections to PEERS Missouri’s claims (claim nos. 652787-652788) should be overruled.

(7) RiskMetrics: Ruane, Cunniff & Goldfarb, Inc.: 54 Claims - \$457,816

Ruane, Cunniff & Goldfarb filed claims through RiskMetrics. Certain claims objected to by defendants submitted by RiskMetrics on behalf of Ruane, Cunniff & Goldfarb are addressed in §B.2.a.1.o. The remaining 54 claims are addressed in this section. The list of those 54 claims is set forth at Ex. B-2-a-7-a. Ruane, Cunniff & Goldfarb also provided a declaration in support of all 54 claims identified by defendants that states:

The data contained in our spreadsheet has been obtained from our internal data system, which is maintained in the normal course of RCG’s business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose

behalf we are filing claims are clients and/or customers of RCG and have authorized us to file such claims.

Ex. B-2-a-7-b, Goldfarb Decl., ¶4. Defendants' objections to the Ruane, Cunniff & Goldfarb claims should be overruled.

**(8) RiskMetrics: National Australia Bank: 2 Claims
- \$431,077**

On May 25, 2011, ISS provided a diskette, cover letter and proof of claim form in support of these claims to Gilardi. Ex. B-2-a-8. The cover letter stated: "I attest that the data contained on our file was obtained directly from National Australia Bank and/or Custodian's internal data retention system and is true and accurate to the best of our knowledge." RiskMetrics/ISS also provided a letter, dated November 7, 2005, authorizing it to file claims, including claim nos. 634072 and 634113, on behalf of National Australia Bank.

**(9) RiskMetrics: Prudential Financial: 1 Claim (No.
634070) - \$39,331**

RiskMetrics filed this claim on behalf of Prudential Financial accompanied by a cover letter dated May 24, 2011, proof of claim form, diskette with transactional data and a November 10, 2009 letter from Prudential authorizing RiskMetrics to file claims on its behalf. The cover letter stated: "I attest that the data contained on our file was obtained directly from Prudential Financial and/or Custodian's internal data retention system and is true and accurate to the best of our knowledge." Ex. B-2-a-9.

**(10) RiskMetrics: Pioneer Munich: 1 Claim (No.
628009) - \$37,800**

On April 26, 2011, RiskMetrics sent Gilardi this claim on behalf of Pioneer Munich accompanied by a cover letter, proof of claim form, diskette with transactional data and a April 20, 2011 letter from Pioneer Investments authorizing ISS to file claims on its behalf. The cover letter stated: "I attest that the data contained on our file was obtained directly from Pioneer Munich and/or

Custodian's internal data retention system and is true and accurate to the best of our knowledge.”

Ex. B-2-a-10.

(11) RiskMetrics: Loomis Sayles: 1 Claim (No. 628131) - \$6,883

On May 3, 2011, RiskMetrics sent Gilardi a proof of claim, cover letter, diskette containing transactional data and a letter dated April 15, 2005 from Loomis, Sayles & Company authorizing RiskMetrics to file claims on its behalf and on behalf of its clients. Ex. B-2-a-11-a. On or about November 4, 2011, Loomis, Sayles & Company provided a declaration executed by Moira Manning, its Class Actions Administrator. The Loomis, Sayles & Company declaration states the following regarding their electronic data:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of Loomis, Sayles' business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of Loomis, Sayles and have authorized us to file such claims.

Ex. B-2-a-11-b, Manning Decl., ¶4. Loomis also provided a list of claims to which this declaration applied, including claim no. 628131, which defendants challenge here. Defendants' objection should be overruled.

(12) RiskMetrics: William Blair: 2 Claims (Nos. 633949-950) - \$3,290

RiskMetrics filed two claims on behalf of William Blair & Company on May 23, 2011 with a cover letter, proof of claim form, diskette with transactional data, and a March 31, 2011 letter from William Blair authorizing RiskMetrics to file claims on its behalf and on behalf of its client accounts. Ex. B-2-a-12-a. On or about October 31, 2011, William Blair submitted a declaration to

Gilardi, executed by Chief Compliance Officer Walter R. Randall, in further support of its claims.

The declaration attested to the accuracy of the transactional data, as follows:

The data contained in our electronic file has been obtained from our internal data system, which is maintained in the normal course of William Blair's business. All information submitted was prepared in the ordinary course of regularly-conducted business by a person with knowledge of the underlying data at or near the time that these transactions occurred. Further, the data has been reviewed and is complete, true, and accurate and includes all transactions of each unique beneficial owner during the Class Period. We further represent that all beneficial owners on whose behalf we are filing claims are clients and/or customers of William Blair and have authorized us to file such claims.

Ex. B-2-a-12-b, Randall Decl., ¶4.

William Blair also provided Gilardi with a list that identified claim no. 633950 as one of the claims referenced in its declaration. Although, the list did not specifically identify claim no. 933949, there is no evidence that the declaration is not equally applicable to that claim as well. Defendants' objections should be overruled.

b. Chicago Clearing Corporation: 987 Claims - \$14,851,640

Plaintiffs have responded to defendants' objections to CCC's claims on the basis of lack of authority. *See* §A.6., *supra*. The declarations provided by CCC's clients also affirm the accuracy of the electronic data. *See* §A.6., *supra*; Ex. A-6-c. Finally, James Tharin, CCC's CEO, provided an affidavit dated October 31, 2011 verifying the accuracy of the electronic data submitted to Gilardi:

CCC maintains the electronic transaction records received from its Clients and/or their records custodians in the transaction record database as a part of its regularly conducted business. CCC extracted the Household transaction records submitted to Gilardi & Co. on behalf of its Clients directly from its transaction records database. The Household transaction records submitted by CCC to Gilardi & Co. on behalf of CCC's Clients are true and accurate copies of the transaction records maintained by CCC's Clients and/or their records custodians.

Ex. B-2-b, Tharin Decl., ¶4. Defendants' objections should be overruled.

c. Class Action Services: 326 Claims - \$3,823,592

Class Action Services (“CAS”) filed electronic claims on behalf of its clients. Of the 326 claims objected to by defendants, 279 of the claims were filed on behalf of Schonfeld Securities, which provided backup documentation to Gilardi. Ex. K, McDermott Decl., ¶3. Another seven claims filed by CAS on behalf of Electronic Trading Group also included backup documentation. *Id.* For these claims, and for the remaining 41 claims filed on behalf of 11 different claimants, CAS submitted a letter to Gilardi dated February 9, 2011 that stated that “[t]he information submitted is, to the best of our knowledge, complete and accurate, and includes all transactions of each unique beneficial owner during the Class Period.” Ex. B-2-c-1. In addition, CAS submitted to Gilardi the agreements between CAS and its clients (including the 13 entities challenged by defendants) that authorized CAS to file claims, and for CAS to obtain the trade data from its clients for the filing of the claims. *See* Ex. B-2-c-2.

d. Sturman LLC: 27 Claims (Universal Investment: 18 Claims - \$1,363,372; Pioneer Investments: 7 Claims - \$862,557; and Oppenheim: 2 Claims - \$91,611)

Defendants object to 27 claims filed by Sturman LLC. Sturman LLC filed electronic claims on behalf of its clients, and included a cover letter dated May 24, 2011, that stated that the information submitted was complete and accurate and includes all transactions of that beneficial owner during the Class Period. Ex. B-2-d. The challenged Sturman LLC claims are claim nos. 650706-650724, 650697-650703 and 650694-650695.

e. Claims Compensation Bureau: 7 Claims - \$1,139,406

Claims Compensation Bureau (“CCB”) filed claims on behalf of its client accounts. Defendants object to seven of these claims (claim nos. 629654, 629657-629661 and 650589). CCB submitted to Gilardi a supplemental declaration that was executed by Norman S. Jung, Vice President of Operations at CCB. Mr. Jung attested to the fact that he was the authorized CCB

representative responsible for filing class action claims on behalf of CCB clients pursuant to its contracts with its clients. Mr. Jung stated the following about the data submitted to Gilardi:

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from CCB's internal record keeping system, which is comprised of each client's clearing firm information or internal records. In the ordinary course of business, CCB extracts this type of data by a computerized search using key case information. CCB personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of CCB's regularly-conducted activity, and it is the regular practice of CCB to keep such records.

The schedule of transactions submitted in Household was prepared as part of CCB's claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-2-e, Jung Decl., ¶¶4-5.

f. First International Claims Filing: 13 Claims - \$890,448

First International Claims Filing ("FICF") submitted individual proof of claim forms on behalf of 21 accounts accompanied by a cover letter dated May 6, 2011 and supporting electronic data. Ex. B-2-f. The cover letter stated: "The information submitted is, to the best of our knowledge, complete and accurate, and includes all transactions of the beneficial owner during the class period." *Id.* Defendants' objections to these claims (claim nos. 633837-633839, 633841, 633843-633844, 633846-633849, 633852 and 633854-633856) should be overruled.

g. Financial Recovery Technologies

(1) Geode: 2 Claims - \$55,199

Financial Recovery Technologies ("FRT") filed electronic claims with Gilardi on behalf of Geode Capital Management LLC. Defendants object to two of the claims (claim nos. 652779-652780). David Bedard at FRT stated in his October 4, 2011 letter to Gilardi that "[w]e, Financial

Recovery Technologies LLC, attest that the data provided corresponds to our clients' internal records." Ex. B-2-g-1.

(2) Various Accounts: 16 Claims - \$658,048

Defendants also object to 16 claims under the subheading "FRT – on behalf of Various Accounts." Gilardi has confirmed that 13 of these claims will be withdrawn and should be removed from Gilardi's December 22, 2011 report (claim nos. 633388-633389, 652560, 652537, 652713, 652768, 652583, 652702, 652709, 652555, 652645, 652683 and 652664). Three of these claims (claim nos. 633411-633413) were filed on behalf of JLF Asset Management ("JLF"). JLF provided a declaration from Jeff Feinberg attesting to the accuracy of the data submitted on its behalf by FRT. Ex. B-2-g-2.

h. Class Action Claims Management: 6 Claims - \$411,849

Class Action Claims Management LLC ("CACM") filed 204 electronic claims on behalf of its clients on April 19, 2011, including a cover letter reflecting it was authorized to file claims on behalf of its customers. Ex. B-2-h-1. Defendants object to six of these claims (claim nos. 650674-650675, 650680-650681, 626795 and 626925). On November 18, 2011, CACM submitted a supplemental declaration to Gilardi that was executed by Michael Egan, President of CACM. Mr. Egan attested to the fact that as President of CACM, he had oversight for the filing of claims in the Household case, and that CACM was the authorized filer pursuant to service agreements with its clients. Mr. Egan stated the following about the data submitted to Gilardi:

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from the Class Action Claims Management's internal record keeping system, which is primarily comprised of a Red Hat Enterprise database. We receive secure electronic data transfers from our clients or their custodians on a daily, weekly or monthly basis. This data is then tested and verified by Class Action Claims Management technology team and loaded into our database systems. In the ordinary course of business, Class Action Claims

Management extracts this type of data by running queries or searches based on CUSIP, ISIN, SEDOL or Ticker within a specified date range. The results are exported as a txt or csv file in the format specified by the claims administrator. The processing of electronic trading data is performed daily by the technology and operations employees of Class Action Claims Management. Class Action Claims Management's personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of Class Action Claims Management's regularly-conducted activity, and it is the regular practice of Class Action Claims Management to keep such records.

Ex. B-2-h-2, Egan Decl., ¶4.

i. Goal Global Recoveries Ltd.: 1 Claim - \$75,462

Defendants object to claim no. 651152-Trans & Gen W. Union. In support of this claim, Goal Global Recoveries, Ltd. ("GGR") filed a supplemental declaration with Gilardi on November 8, 2011, that was executed by Stephen M. Everard, Chief Executive Officer of GGR. Mr. Everard attested that he had oversight of the filing of claims in this action, and that:

The schedule of transactions submitted in Household was prepared in the ordinary course of regularly conducted business by a person with actual knowledge of the underlying data at or near the time that these transactions occurred. The data included with this submission was extracted from Goal Global Recoveries Ltd's internal record keeping system, which is comprised of data files supplied by the customer or client from their own internal or custodial files. In the ordinary course of business, Goal Global Recoveries Ltd extracts this type of data by using a bespoke Trade Scanner program which identifies relevant transactions by the criteria required for class actions. Goal Global Recoveries Ltd personnel have a business duty to record accurately the information contained in this schedule of transactions. Thereafter, the records were kept or maintained in the normal course of Goal Global Recoveries Ltd's regularly-conducted activity, and it is the regular practice of Goal Global Recoveries Ltd to keep such records.

The schedule of transactions submitted in Household was prepared as part of Goal Global Recoveries Ltd's claims submission and was compiled at or around the time the claims were submitted. All of the data reflected in the schedule of transactions and database printout were accurate at the time they were submitted.

Ex. B-2-i, Everard Decl., ¶¶4-5.

j. Greenback Holdings: (DRO-West Trading): 1 Claim - \$2,863; Cornerstone Partners: 2 Claims - \$4,654

Greenback Holdings (“GH”) filed electronic claims for its clients. Defendants challenge one claim filed on behalf of DRO-West Trading (claim no. 629787) and two claims filed on behalf of Cornerstone Partners (claim nos. 629783 and 629785). In letters dated April 29, 2011, Administrator Edith Lutz of GH, sent a letter to Gilardi which included disks of the trade history and stated that “[w]e received our historical data electronically from our clearing firm. We believe that all of the data is correct and accurate to the best of our knowledge.” Ex. B-2-j.

k. Graham Capital Recovery Group: 3 Claims (Nos. 650687-650688 and 650682) - \$1,626

Graham Capital Recovery Group (“GCRG”) sent an electronic claim to Gilardi on behalf of its clients, along with cover letters dated May 24, 2011. The letters were executed by Denise C. Atkinson, Managing Director of GCRG, and stated that information was “complete and accurate, and includes all transactions of each unique beneficial owner during the class period.” Ex. B-2-k. On August 31, 2011, GCRG provided supplemental letters to Gilardi stating that the claimants are proprietary BD trading firms. GCRG stated: “[t]here are no brokerage statements or confirms” because their clients receive “a daily data download of their trading transactions from the clearing firm.” *Id.*

3. Unbalanced Claims

As noted in its report, Gilardi identified 692 claims that are “unbalanced.” The term “unbalanced” refers to the fact that the beginning and ending balances required by the claim form do not balance with the transactional data supplied by the claimant. However, as explained below, this does not mean that the calculation of the claim amount is incorrect, since the relevant purchase and sale transactions during the Class Period are the critical information, are provided, and are the best information available – 11 or 12 years after the fraud – according to the claimant.

Class members were required to provide the number of shares of Household stock they owned at the close of trading on March 22, 2001, which was the day before the Damages Period (March 23, 2001 to October 11, 2002). Class members were also required to provide all purchases of Household stock during the Damages Period and to list all sales between March 23, 2001 and January 8, 2003. The sales information for the period October 11, 2002 through January 8, 2003 is potentially relevant for the 90-day look back provision of the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. §78u-4(e)(1). Finally, class members were required to list the number of shares they owned at the end of the 90-day look back period – the close of trading on January 8, 2003.

In light of the fact that the case is 11-12 years old and that claimants did not have to provide purchase transactions during the 90-day look back period, it is not surprising that certain claims do not balance as of January 8, 2003. Nevertheless, Gilardi was able to balance the claims from the data provided by the claimants for all but 692 claims. However, as explained by Gilardi, “[i]deally, a claim will not show any discrepancies between the beginning and ending share totals, meaning that all shares are accounted for by transactions between those dates, and the claim is therefore exactly balanced.” Gilardi Report, ¶10 [Dkt. No. 1790]. In Gilardi’s report, the claims administrator noted that any discrepancies resulting in unbalanced claims “are generally due to: a) gaps in recordkeeping when securities are transferred between brokerages, custodial banks, or accounts and/or b) an aged class period and the inability of the claimant to access records or systems to complete the claim.” *Id.* There can be no question that purchases in the 90-day look back period add to this “imbalance.”

The claims filed by the Government of Singapore Investment Corp. (claim nos. 620316 (\$62,376,350), 620317 (\$14,741,727) and 620315 (\$10,242,558)) demonstrate that unbalanced claims are a non-issue. Gilardi initially determined that these three claims were “unbalanced.” However, it has since been determined that Singapore’s custodian filer (BNY Mellon) provided an

ending balance that was incorrect. Ex. K, McDermott Decl., ¶5. Upon correcting the ending balance, the three claims of Singapore are calculated in the same amount as determined by Gilardi in its report. Gilardi has affirmed that these three claims, which collectively represent 45% (\$87,360,635 of the \$194,286,344) of the claims that Gilardi identified as unbalanced, are now unquestionably balanced.⁷ The other claims undoubtedly have similar immaterial issues.

Defendants identify another 599 claims that they assert are unbalanced. Gilardi has reviewed again the vast majority of these claims and continues to disagree with defendants' assertion. Gilardi did not include those claims on its list of unbalanced claims because it was able to balance the claims. Many of these claims appear unbalanced because there were dividend reinvestments, purchases during the 90-day look back period, or were resolved with the claimant during Gilardi's claims processing efforts. Gilardi was eventually able to balance each of these claims.

Finally, even if there were minor discrepancies in these unbalanced claims, it should not provide a windfall to the defendants – who were found liable for violation of the securities laws. Their objections to unbalanced claims should be overruled.

4. Claims with Negative Balances

Defendants have identified 874 claims (\$41,356,197) that they assert have cumulative negative balances at some point during the Damages Period due to a “non-short sale.” Defs' Brf. at 12. In Gilardi's view, many of the negative balances may be caused by short sales. In any event, these claims were processed by Gilardi like any other claim pursuant to the damages formula adopted by the Court. Again, defendants failed to provide a claim-by-claim explanation of their

⁷ Defendants lodged only this objection to these three Government of Singapore Investment Corp. claims – therefore, this \$87,360,635 in claims is now indisputably valid.

objections as required by the February 3, 2012 Order and accordingly, the objections should be overruled.

**5. Claims Relating to Investments Other Than Household Stock
(8 Claims - \$12,386)**

Defendants contend that there are eight claims on Gilardi's December 22, 2011 report that relate to investments in securities other than Household common stock. Plaintiffs have confirmed that four of the claims relate to another HSBC security. Plaintiffs agree that these claimants do not fall within the class definition (claim nos. 112342, 105050, 101348 and 101316) and should be removed from Gilardi's Report of Valid Claims. Gilardi Report, Exs. A, B [Dkt. Nos. 1790-1, 1790-2]. The original allowed loss for these claims was \$8,440. The other four claimants challenged by defendants in this category fall within the class definition. Their proof of claim forms identified post-HSBC merger converted shares, but upon closer analysis by Gilardi, actually reflect purchases and sales of Household common stock during the Relevant Time Period. These four claims (claim nos. 105846, 107800, 125565 and 114854) are valid. The allowed loss associated with these four claims is \$3,947.

C. Defendants' Contentions re "Overstated Claim Amounts"

1. Duplicate Claims (20 Claims Are Duplicate; 20 Remain)

Gilardi identified 5,162 sets of duplicate claims and accounted for them properly in its December 22, 2011 report. Defendants have identified and Gilardi has confirmed that there are 20 additional duplicate claims that were not identified previously for a variety of reasons. The 20 duplicates that should be removed from Gilardi's December 22, 2011 report are identified on Ex. C-1.

2. Claims with No Reported Trading Activity During the Class Period

Defendants objected to 20 claims, asserting that the claims showed no reported trading activity during the Class Period. Defendants have raised a valid objection as to 5 of these 20 claims. Four of the claims are addressed above in §B.5, since they related to investments in another HSBC security. Therefore, those four claims should be excluded from Gilardi's Report of Valid Claims. One other claim for \$5 should also be excluded – it related to an un-reinvested cash dividend. Defendants' objections to the remaining 15 claims should be overruled, since the claims arose out of purchases of Household common stock during the Class Period. A list of the 20 claims at issue, identifying the five claims that should be excluded and the 15 claims that are valid, is set forth on Ex. C-2.

3. Claims for Which Defendants' Calculations of the Allowed Losses Are Less than Gilardi's Calculations

Defendants identify 1,648 claims (\$104,851,231) that they assert should have been calculated as only \$64,404,030. Defendants do not explain why they believe the claims are collectively worth \$40 million less than Gilardi's calculation.⁸ With many claims, Gilardi had additional communications with class members (and their agents) to gather additional information to properly calculate the appropriate loss (or gain) amount. The discrepancy in the loss amounts is likely due to Gilardi's further gathering of information from claimants. Defendants' failure to provide the

⁸ Defendants suggest that Gilardi is paid by the claim and, therefore, incentivized to accept invalid claims. Gilardi's fee is not tied in any way to the number of valid claims. In contrast, defendants and their consultants are clearly incentivized to reduce the damages owed to the Class. For example, defendants identify 1,648 claims as to which they argue Gilardi over-calculated the loss, but do not identify a single claim as to which Gilardi "under-calculated" the loss.

required claim-by-claim analysis of why they believe the claims administrator's calculation is incorrect alone should cause the Court to overrule their objections.⁹

D. Claims with a "Yes" Answer, or Lacking an Answer, to the Proof of Claim Form's Reliance Question

1. Claims with a "Yes" Answer to the Reliance Question (124 Claims - \$57,552,922)

Defendants' objections to claimants who answered "yes" to the reliance question reiterate the arguments raised in their reliance filing on October 14, 2011 [Dkt. No. 1780]. Plaintiffs responded to defendants' arguments in plaintiffs' brief filed on November 28, 2011, Plaintiffs' Opposition to Defendants' Submission Regarding Rebuttal of the Presumption of Reliance [Dkt. No. 1782]. Plaintiffs incorporate by reference their arguments from the November 28, 2011 briefing in response to defendants' renewed objections to these claims.

In addition, plaintiffs disagree with defendants' analysis of two claims filed respectively by Henry J. Coopersmith (claim no. 111715 for \$7,263) and Western Metal Industry Pension (claim no. 618432 for \$384,818). Henry J. Coopersmith did not answer the reliance question for that claim. As to that claim, contrary to defendants' assertion, he did not answer "yes." Western Metal Industry Pension provided both "yes" and "no" answers at various times. The objections to these claims should be overruled regardless of the Court's ruling on the reliance briefing.

⁹ Plaintiffs are compelled to note that defendants' "calculations" objections relate to 1,648 claims. However, the discrepancy between their calculations and Gilardi's calculations are less than \$1,000 for 1,163 of these 1,648 claims. Incredibly, defendants assert that Gilardi's calculations for 156 claims are off by a single dollar (\$1.00). Defendants' nitpicking aside, their objections should be overruled.

2. Claims Filed by Beneficial Owners Without an Answer to the Reliance Question (2,572 Claims - \$28,684,658)

Defendants object to 2,572 claims filed directly by beneficial owners who allegedly failed to answer the reliance question. In its May 31, 2011 Order, the Court held that the claims administrator should only be required to seek an answer to the reliance question from claimants with losses in excess of \$250,000. Only 18 of the claims objected to by defendants in this subcategory relate to claims in excess of \$250,000. Although the May 31, 2011 Order arose out of issues relating to claims filed by custodian banks and third-party filers, the Court's ruling is equally applicable to beneficial owners who filed claims directly as well. If not, the claims administrator will have to contact 2,554 (2,572 – 18 claims greater than \$250,000) claimants again to obtain supplemental answers to the proof of claim form question, which will “likely result in a huge waste of time and resources.” May 31, 2011 Order at 4 [Dkt. No. 1763]. Defendants' objections to the 2,554 claims with allowed losses less than \$250,000 should be overruled based on the reasons set forth in the May 31, 2011 Order.

As to the 18 beneficial owners with losses in excess of \$250,000 objected to herein, plaintiffs disagree with defendants regarding 5 of these claims. One beneficial owner identified by defendants answered “no” to the proof of claim form question (HC Capital Value Equity Portfolio; claim no. 117088 for \$290,728). Four other beneficial owners with losses in excess of \$250,000 provided an explanation for their inability to answer the question (Executive Life Ins. Co. of NY, claim no. 122480 for \$971,919; JPMorgan Clearing Corp., claim no. 628059 for \$926,477; JPMorgan Clearing

Corp., claim no. 628019 for \$608,258; and JPMorgan Securities LLC, claim no. 633593 for \$366,810). Defendants' objections to these five claims should likewise be overruled.¹⁰

Finally, plaintiffs incorporate their November 28, 2011 reliance briefing on this issue as well.

3. Claims Filed by Third Parties on Behalf of Beneficial Owners with Allowed Losses in Excess of \$250,000 Without an Answer to the Reliance Question (101 Claims - \$71,898,101)

Defendants claim to have identified 101 claimants in this category. Plaintiffs agree that 56 claimants with an allowed loss in excess of \$250,000, who filed through third parties, have not answered the proof of claim form question. However, defendants have incorrectly included in their objections 4 claimants who answered "no" to the reliance question and 41 claimants who provided an explanation in response to the question. *See* Ex. D-3. Defendants' objections to these 45 claims should be overruled. As to the other 56 claimants, plaintiffs incorporate by reference the arguments set forth in their November 28, 2011 reliance briefing.

4. Claims Filed by Third Parties on Behalf of Beneficial Owners with Allowed Losses of \$250,000 or Less Without an Answer to the Reliance Question (22,667 Claims - \$178,907,639)

Defendants' objections to these claims must be overruled. The Court's May 31, 2011 Order mandated that these 22,667 claimants were not required to answer the reliance question. Plaintiffs have confirmed through the meet-and-confer process that defendants include this category only to preserve their argument that was rejected by this Court on May 31, 2011. Plaintiffs note that defendants once again ignore their prior representations that they needed discovery from only 10-15 of the largest investors to rebut the presumption of reliance, but ended up seeking discovery from

¹⁰ Plaintiffs note that 75 of the claimants with losses less than \$250,000, contrary to defendants' analysis in this section, actually answered "no" to the reliance question. *See* Ex. D-2. The objections to these claims should be overruled, even if the Court requires the claims administrator to seek answers from the claimants with losses less than \$250,000.

over 100 class members and third parties. *See* May 31, 2011 Order at 6-7 [Dkt. No. 1763]; August 16, 2011 Order at 5-10 [Dkt. No. 1775]. If defendants have an issue, it is not with the due process that they have been afforded, rather it is because defendants failed to use their discovery wisely. They have only themselves to blame.

E. Untimely Claims (737 Claims - \$36,843,523) Allegedly Postmarked After May 24, 2011; 17 Supplemental Answers (\$13,112,897) Allegedly Postmarked After September 12, 2011

Defendants challenge as “untimely” (1) initial claims that were postmarked after May 24, 2011 and (2) follow-up responses providing an answer to the claim form question that were postmarked after September 12, 2011. However, the Court’s January 11, 2011 Order explicitly states that “Lead Counsel may, in their discretion, accept late-submitted claims for processing by the Claims Administrator so long as further proceedings in the Action are not materially delayed thereby.” January 11, 2011 Order at 3, ¶4 [Dkt. No. 1721]. The Order also provides that the Court may allow late-filed claims.¹¹ *Id.* None of the challenged “untimely” claims have impacted the schedule at all, let alone “materially delayed” the proceedings, and defendants do not contend otherwise. Accordingly, pursuant to the January 11, 2011 Order, defendants’ objections to these claims should be denied in their entirety. *Id.*

Further, certain claimants have provided detailed explanations for the timing of their submissions. DRRT filed six claims on behalf of UBS Fund Management (claim nos. 651160-651165 for an allowed loss of \$3,302,370) on June 24, 2011. As set forth in the Declaration of Alexander Reus (Ex. E-1), DRRT filed these claims after the May 24, 2011 deadline because of the

¹¹ Plaintiffs filed the Proposed Order Approving the Form and Manner of Notice on December 16, 2010. Defendants raised a number of objections to the Proposed Order which was the subject of a lengthy oral argument, but they did not object to either provision concerning the treatment of late-filed claims. *See* January 5, 2011 Transcript.

unexpected departure of a UBS employee who was responsible for handling transaction data related to class action cases and the consequent restructuring of the group at UBS that handled these tasks.¹²

The Prudential Funds have also provided the Court with a declaration specifically addressing the reason that the seven one-page supplemental forms for certain Prudential-related claims were received after September 12, 2011, but more than 30 days before Gilardi finished their December 22, 2011 report. Ex. E-2. Initially, Prudential timely submitted claims on behalf of 12 funds that suffered allowed losses in excess of \$250,000 due to defendants' fraudulent conduct. The claims were filed by RiskMetrics. However, Prudential's attorneys only learned about the necessity of submitting the supplemental one-page forms after discussions with Lead Counsel for plaintiffs. Lead Counsel advised Prudential's counsel that there were five claims in excess of \$250,000 bearing Prudential fund names that required an answer to the reliance question. Prudential promptly submitted the one-page supplemental forms for these five claims before September 12, 2011. The Prudential declaration establishes that, thereafter and before September 12, 2011, the company followed up with both RiskMetrics and the claims administrator to determine whether there were any other Prudential funds that needed to complete the supplemental claim form. Prudential was assured that there were no other funds in this category. Ex. E-2, Prudential Decl., ¶5. On November 15, Prudential learned from Lead Counsel that there were seven other Prudential funds that needed to complete the one-page supplemental form. *Id.*, ¶6. Prudential promptly completed and submitted the forms to Gilardi two days later. *Id.* Moreover, as Prudential explains in the declaration, more

¹² Defendants object to 251 claims filed by CCC, alleging that these claims were filed after May 24, 2011. On May 23, 2011, CCC submitted a master proof of claim form on behalf of its clients with a cover letter dated May 16, 2011. Ex. B-2-b; Ex. A-6-b. Thereafter, CCC provided electronic data in support of these claims on July 13 and September 14, 2011. *Id.* As such, defendants' timeliness objections to these 251 claims should be overruled. A list of the 251 claims is attached as Ex. E-5.

than 41,000 retail account shareholders and over 224,000 variable annuity and life insurance policy holders are invested in these seven funds. *Id.*, ¶7. These innocent victims who were defrauded by defendants should not be punished because of an inconsequential delay which resulted in no prejudice to the defendants. In light of Prudential's explanation, even if the Court were to exclude other claims that answered the reliance question after September 12, 2011, defendants' objections to the seven Prudential claims should be overruled. (The seven Prudential claims at issue are claim nos. 625321, 625325, 625364, 625365, 625370, 625374 and 625380 for a total allowed loss of \$7,121,446.) There are no other objections lodged by defendants to these claims.

The defendants' timeliness objections to two other claims based on their submission of the supplemental claim form after September 12, 2011 are also unfounded. The supplemental one-page form submitted by LaFarge UK Pension Plan-Wellington (claim no. 620345 for \$541,338) was executed on September 8, 2011 in London, England. The shipper tracking information demonstrates that the one-page form was posted on September 8, 2011 and delivered to Gilardi on September 14, 2011. Ex. E-3. This claim is not untimely. Similarly, claimant WITCO-Smith Barney (claim no. 622708 for \$279,554) executed the one-page supplemental form on September 9, 2011. The form was received by Gilardi on September 16, 2011, however the postmark is illegible. Ex. E-4. Defendants have failed to demonstrate that this claim is untimely.

F. Claims Filed by Individuals or Entities that Defendants Argue Are Not Members of the Certified Class

1. Claims Filed by Household Employees: 183 Claims - \$1,150,799

Defendants objected to 183 claims filed by Household employees, claiming they were excluded because they are affiliated or "agents" of Household.

By Order entered December 3, 2004, the Court certified a class defined as follows:

[A]ll persons who purchased or otherwise acquired the securities of Household International, Inc. (as defined in the [Corrected] Amended Consolidated Class Action Complaint for Violation of the Federal Securities Laws) (“Household”) between October 23, 1997 and October 11, 2002. . . . Excluded from the Class are defendants herein, members of defendants’ immediate families, any person, firm, trust, corporation, officer, director or other individual or entity in which any defendant has a controlling interest or which is related to or affiliated with any defendant, and the legal representatives, agents, affiliates, heirs, successors-in-interest or assigns of any such excluded party.

Dkt. No. 198, ¶1. However, the class definition only excludes defendants’ immediate families, and any person or entity that defendant has a controlling interest or is related or affiliated with defendants, and the “agents” of any of these excluded parties. Household has not provided any evidence that the employees whose claims it seeks to exclude (other than the three individual defendants – Aldinger, Schoenholz and Gilmer) fit the categories of excluded entities. Indeed, Household provided no evidence even establishing that these claimants were employed by Household during the Damages Period or when they purchased the shares at issue. Nor has Household established that they are still employed by Household. As to those who no longer work for Household, they cannot be Household’s agents and Court has already ruled (at Household’s urging) that such former employees are not under Household’s control. *See* March 11, 2009 Order Regarding Plaintiffs’ Motions in Limine at 3 [Dkt. No. 1500] (denying plaintiffs’ request to compel former employees Hennigan and Walker to testify at trial); *see also In re Motorola Sec. Litig.*, 644 F.3d 511, 518-19 (7th Cir. 2011) (holding that a claimant is an affiliate only if it is under the control of the defendant).

Furthermore, the purpose of the exclusion is to provide that those persons or entities (either the Individual Defendants or entities controlled by Household) that benefitted from the fraudulent activity ***should not*** be able to participate in any settlement or judgment. Defendants have not shown that these challenged claimants benefitted from the fraudulent activity.

2. The Claim Filed by the HSBC-North America Tax Reduction Investment Plan (“TRIP”): 1 Claim - \$37,693,268

Defendants argue that HSBC-North America’s TRIP, an employee benefit plan, is an affiliate of Household and, therefore, is excluded from the class definition. Defs’ Brf. at 18. Defendants rely entirely on *Motorola*, which held that the Motorola 401(k) Profit Sharing Plan was controlled by Motorola and, therefore was ineligible to participate in a securities class action settlement, where the class definition excluded affiliates of Motorola. 644 F.3d at 513.

To invoke *Motorola*, however, defendants must establish that HSBC TRIP is an “affiliate” by demonstrating with competent evidence that HSBC TRIP “controls, or is controlled by, or is under common control with” Household. *Id.* at 518-19 (quoting SEC Rule 144, 17 C.F.R. §230.144(a)(1), and SEC Regulation 12B, Rule 12b-2, 17 C.F.R. §240.12b-2). In order to establish control, defendants must prove that Household has the “direct or indirect power to govern the management and policies” of HSBC TRIP. *Id.* at 519 (citation omitted). They have not met this burden. Unlike *Motorola*, defendants here do not contend that the participants in HSBC TRIP did not purchase common stock, but instead purchased shares in the Fund that itself purchased Household common stock. Defs’ Brief at 18-19. Furthermore, in support of their objection defendants do not even contend that Household controls HSBC TRIP, let alone provide evidence establishing that control.¹³ Thus, the record here stands in stark contrast to *Motorola* where the Seventh Circuit found control based on particularized facts and evidence before the court, including that: (1) “[t]he Trustee, not the participants, [held] title to the Motorola common stock in the Fund”; (2) “the Profit-Sharing Committee, as Plan Administrator, had managerial control over the policies and operation of the

¹³ Defendants’ failure to raise this vital point as to HSBC TRIP participants is especially noteworthy because they do make this contention (without support) as to the HSBC ADS Fund claimants. Defs’ Brf. at 18-19.

Plan”); (3) “Motorola appointed and removed Committee members at will” and therefore “it had structural [and] organizational control over the management and policies of the Committee”; and (4) “Based on the Plan’s structure and the requirements of ERISA, the Profit-Sharing Committee, as Plan Administrator, had managerial control over the policies and operation of the Plan.”¹⁴ 644 F.3d at 514, 519. Because there is no evidence that the HSBC TRIP plan is controlled by Household, defendants have not met the Seventh Circuit’s “control” test and their objections should be overruled.

3. Claims Filed on Behalf of HSBC as the Beneficial Owner: 8 Claims - \$1,366,000

Defendants argue that HSBC is the parent company of Household and, therefore, is an affiliate of Household, and that any claims filed by HSBC on its own behalf, or filed by any other person or entity on behalf of HSBC, are not entitled to recover. Of course, if HSBC really was the beneficial owner of the eight entities identified by defendants, HSBC could simply withdraw the claims.

Plaintiffs agree that any claim filed on behalf of HSBC as the beneficial owner would be excluded under the class definition. However, there is no evidence that HSBC is the beneficial owner of these eight entities. In fact, these eight entities appear to be investment or mutual funds sponsored, managed, or sold by HSBC to *other* entities that are the beneficial owners. For example, the HSBC World Equity Fund, HSBC Investor Equity Fund and HSBC Balanced Fund are clearly

¹⁴ In concluding that the committee controlled the plan, the court relied on additional facts concerning the plan participants’ investment options and voting rights and the committee’s discretion to limit the each plan participants’ investments and restrict the frequency with which they could reallocate investments within the plan. *Motorola*, 644 F.3d at 521. Unlike this case, moreover, the Motorola plan participants filed a separate ERISA action in which summary judgment was granted for the defendants in a decision that was affirmed by the Seventh Circuit before *Motorola* was decided.

HSBC-sponsored mutual funds. All eight entities appear to be investment funds sold and/or managed by HSBC, but the beneficial owners of the funds are the investors in these funds. These claims are similar to the thousands of claims filed by other investment or mutual funds on behalf of their investors. As such, these entities should not be excluded from recovery.

**4. Claims Submitted by Participants in the HSBC ADS Fund: 14
Claims - \$129,267**

Defendants argue that the HSBC ADS Fund is the successor to the Household International Common Stock Fund (the “Household Stock Fund”), one of the investment options that was available to participants in Household’s 401(k) fund, and is therefore excluded under *Motorola*. Defs’ Brf. at 18-19. Even if defendants’ contention that the Household Stock Fund participants acquired shares in the fund which, in turn, acquired Household common stock were supported (it is not), this still would not defeat those plaintiffs’ claims. In *Motorola*, the Seventh Circuit explicitly rejected the same argument, holding “[t]hat the individual participants did not purchase publicly traded Motorola stock does not take the Plan outside the class definition if the Plan itself purchased the stock.” *Motorola*, 644 F.3d at 516. Thus, as with the HSBC TRIP claim, to prevail defendants must prove that Household controls the HSBC ADS Fund. *Id.* at 518-19. And, as with the HSBC TRIP plan, defendants have not met the Seventh Circuit’s control test as set forth in *Motorola*. Accordingly, defendants’ objection to claims filed by Household Stock Fund participants should be overruled.

II. CONCLUSION

By reason of the foregoing, with the exception of 47 claims identified by plaintiffs in §§A.13., B.2.g.2., B.5., C.1. and C.2., defendants' objections should be overruled.

DATED: March 28, 2012

Respectfully submitted,

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I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and employed in the City and County of San Diego, State of California, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 W. Broadway, Suite 1900, San Diego, California 92101.

2. That on March 28, 2012, declarant served by electronic mail to the parties listed below, the following documents:

PLAINTIFFS' OPPOSITION TO DEFENDANTS' OBJECTIONS TO CERTAIN CLAIMS INCLUDED IN THE REPORT OF CLAIMS ADMINISTRATOR GILARDI & CO. LLC, UNDER SEAL PURSUANT TO LOCAL RULE 26.2

The parties' e-mail addresses are as follows:

TKavaler@cahill.com	Mrakoczy@skadden.com
PSloane@cahill.com	Rstoll@skadden.com
PFarren@cahill.com	Ldegrand@degrandwolfe.com
LBest@cahill.com	TWolfe@degrandwolfe.com
DOWen@cahill.com	MMiller@MillerLawLLC.com
JHall@cahill.com	LFanning@MillerLawLLC.com

I declare under penalty of perjury that the foregoing is true and correct. Executed this 28th day of March, 2012, at San Diego, California.



DEBORAH S. GRANGER