



### **A. General Background**

4. The Office of the Ohio Attorney General (“OAG”) is statutorily charged with providing legal advice and counsel to PERS, STRS, and BWC. In that role, the OAG oversees and supervises all of the activities of outside law firms representing PERS, STRS, and BWC.

5. The OAG has substantial experience coordinating with and monitoring outside counsel because it has performed that role in numerous securities fraud class actions, including most recently *Bank of Am. Corp. Sec., Deriv. & ERISA Litig.*, No. 09-MDL-2058 (S.D.N.Y.) and *In re Merrill Lynch & Co., Inc. Sec., Deriv. & ERISA Litig.*, No. 07-CV-9633 (S.D.N.Y.).

### **B. The Litigation of the Action**

6. I, along with others in the OAG, have been actively involved in all aspects of, the prosecution of the Action, and have overseen and supervised the activities of Grant & Eisenhofer on behalf of the Class and the Ohio Plaintiffs. Among other things, we: (i) reviewed, commented on, revised, and approved significant pleadings, briefs, discovery responses, and other papers before they were exchanged and/or filed; (ii) reviewed significant pleadings, briefs, discovery requests and responses, and other papers received from the defendants in this Action; (iii) had regular telephonic and email communications, as well as in-person meetings, with attorneys from Grant & Eisenhofer, regarding strategy and developments in the Action; (iv) oversaw and assisted PERS, STRS, and BWC personnel in responding to discovery requests, including the production of hundreds of thousands of pages of documents; (v) participated in the preparation of PERS, STRS and BWC witnesses for deposition; and (vi) participated in multiple mediation sessions and settlement discussions on behalf of the Class and the Ohio Plaintiffs.

7. The OAG also required Grant & Eisenhofer to provide monthly status reports concerning the Action, including a general overview of litigation developments and a review of litigation costs and expenses incurred.

### **C. Settlement Discussions**

8. Over the course of more than one and one-half years, Retired Judge Daniel Weinstein convened multiple mediation sessions in California and New York. These sessions covered many complex issues.

9. The OAG participated telephonically in one mediation session and I personally attended the mediation session on October 14-15, 2009 that precipitated the settlement.

10. In addition, Richard Cordray, the Ohio Attorney General, and Albert Lin, General Counsel for the OAG, were also personally and actively involved in formulating settlement strategy and positions, especially in late October and into November 2009.

11. On November 10, 2009, the parties reached an agreement in principle to settle the Action.

12. The OAG actively supervised and commented on the terms of the proposed settlement and its memorialization in the Stipulation and Agreement of Settlement and related documents.

13. Based on our involvement in the prosecution and settlement of this Action, the OAG endorses the settlement and believe it provides an excellent result for the Class.

### **D. The Plan of Allocation**

14. Based on the explanation of the analysis of the proposed Plan of Allocation completed by Lead Plaintiffs' retained consultant in the Action, the OAG also endorses the proposed Plan of Allocation. We understand that the Plan represents a fair and reasonable method for valuing claims submitted by class members, and for distributing the net settlement funds to class members who submit valid and timely claim forms.

**E. Plaintiffs' Counsel's Fee and Expense Application**

15. The OAG endorses the application for attorneys' fees of 13.5%. The OAG believes that this payment represents fair and reasonable compensation to Co-Lead Counsel for their efforts, for the excellent result achieved, and the substantial risks undertaken in this Action.

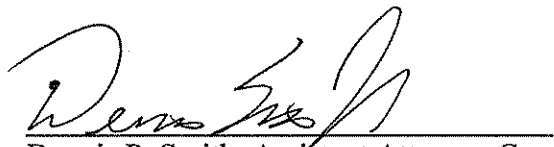
16. Moreover, such fees are consistent with the fees that the OAG negotiated with Grant & Eisenhofer at the outset of the litigation, and with the lodestar cross-check figures set forth in the Joint Declaration.

17. I understand that this fee payment, if approved by the Court, will cover all plaintiffs' counsel who contributed to the prosecution of the Action. The OAG believes that such approval is warranted as the payment represents a fair and reasonable fee to plaintiffs' counsel for their efforts in prosecuting the Action along with the New Jersey Plaintiffs and Co-Lead Counsel.

18. Having reviewed, on a regular basis throughout the course of this litigation, the litigation expenses in this case, the OAG further believes that the litigation expenses being requested for reimbursement were reasonable and necessary for the prosecution and successful resolution of the Action.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed this 18th day of December, 2009

  
Dennis P. Smith, Assistant Attorney General

**CERTIFICATE OF SERVICE**

The undersigned, hereby certifies that the foregoing declaration / exhibit in support of its referenced motion was served with the clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record identified on the Court's ECF service list.

I additionally certify that the counsel listed below have been additionally served with the same documents via electronic mail.

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/s/ Keith M. Fleischman

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