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16 *and Lead Counsel for the Settlement Class*

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 IN RE HP SECURITIES LITIGATION,  
21

22 This Document Relates To: All Actions  
23  
24

MASTER FILE No. 3:12-cv-05980-CRB

**CLASS ACTION**

**NOTICE OF MOTION AND MOTION  
FOR DISTRIBUTION OF NET  
SETTLEMENT FUND; AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

Date: August 25, 2017  
Time: 10:00 a.m.  
Judge: Hon. Charles R. Breyer  
Courtroom: 6, 17<sup>th</sup> Floor

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28 MOTION FOR DISTRIBUTION OF NET  
SETTLEMENT FUND

MASTER FILE No. 3:12-cv-05980 CRB

**NOTICE OF MOTION AND MOTION**

**TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD**

PLEASE TAKE NOTICE that on August 25, 2017, at 10:00 a.m. in Courtroom 6 on the 17th Floor of the United States District Court for the Northern District of California, San Francisco Courthouse, 450 Golden Gate Ave., San Francisco, California, 94102, before the Honorable Charles R. Breyer, United States Senior District Judge, Court-appointed Lead Counsel Kessler Topaz Meltzer & Check, LLP will and hereby does move for an Order pursuant to Rule 23 of the Federal Rules of Civil Procedure which will, *inter alia*: (i) approve the administrative determinations of the Court-appointed claims administrator, Garden City Group, LLC (“GCG”), accepting and rejecting the Proof of Claim Forms submitted in connection with the settlement of the above-captioned action (“Settlement”) as set forth in the Declaration of Stephen J. Cirami in Support of Motion for Distribution of Net Settlement Fund (“Cirami Declaration” or “Cirami Decl.”)<sup>1</sup> submitted herewith; (ii) approve payment of \$226,511.90 out of the Net Settlement Fund to GCG for its outstanding fees and expenses incurred in connection with the administration of the Settlement, which amount includes GCG’s estimate to conduct the Initial Distribution of the Net Settlement Fund; (iii) direct the Initial Distribution of the Net Settlement Fund (after deducting the payment requested herein) to Settlement Class Members whose Proof of Claim Forms have been accepted for payment by the Court (“Authorized Claimants”), while maintaining a Reserve for any contingencies that may arise; (iv) direct that distribution checks state that the check must be cashed within 120 days after issue date; (v) direct that Authorized Claimants will forfeit all recovery from the Settlement if they fail to cash their distribution checks in a timely manner; (vi) approve the plan for re-distribution and/or donation of any funds remaining in the Net Settlement Fund following the Initial Distribution to Authorized Claimants; (vii) release claims related to the administration process; (viii) authorize destruction of paper copies of Proof of Claim Forms one year after the Initial Distribution of the Net

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<sup>1</sup> All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Cirami Declaration and the Stipulation of Settlement and Release dated as of June 8, 2015 (“Stipulation”) and previously filed with the Court (*see* ECF No. 258).

1 Settlement Fund and electronic copies of the same three years after the Initial Distribution of the  
2 Net Settlement Fund; and (ix) provide that the Court retains jurisdiction to consider any further  
3 applications concerning the administration of the Settlement, and such other and further relief as  
4 this Court deems appropriate.

5 This motion is based upon: (i) this Notice of Motion and Motion, and the Memorandum of  
6 Points and Authorities in Support set forth below; (ii) the accompanying Cirami Declaration and the  
7 exhibits thereto, submitted on behalf of GCG; and (iii) all prior proceedings herein. Lead Counsel  
8 has conferred with counsel for the Defendants in this Action and Defendants do not oppose this  
9 Motion.

10 A [Proposed] Order Authorizing Distribution of Net Settlement Fund is being submitted  
11 herewith.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Court-appointed Lead Plaintiff PGGM Vermogensbeheer B.V., by and through its counsel  
3 Kessler Topaz Meltzer & Check, LLP, hereby submits this memorandum of points and authorities  
4 in support of the motion for an order, pursuant to Federal Rule of Civil Procedure 23(e), approving  
5 the plan for distributing the Net Settlement Fund to eligible Settlement Class Members as set forth  
6 in the accompanying Cirami Declaration submitted on behalf of GCG.

7 **BACKGROUND ON THE SETTLEMENT**

8 Lead Plaintiff, on behalf of itself and the Settlement Class, and Settling Defendants Hewlett-  
9 Packard Company (“HP”) and Margaret C. Whitman (collectively, the “Settling Parties”) entered  
10 into the Stipulation wherein the Settling Parties agreed, in substance, that in exchange for \$100  
11 million in cash (“Settlement Amount”), there would be a full and complete settlement of all Settled  
12 Claims against the Settling Defendants and the other Released Parties. The Settlement Amount plus  
13 any income or interest earned thereon less any: (i) Taxes; (ii) Notice and Administration Costs; (iii)  
14 Litigation Expenses awarded by the District Court; and (iv) attorneys’ fees awarded to Lead  
15 Counsel by the District Court, is referred to herein as the “Net Settlement Fund.”

16 By its Preliminary Approval Order dated July 17, 2015, the Court directed that the Notice,  
17 along with the Proof of Claim Form, be mailed to those members of the Settlement Class identified  
18 through reasonable effort, including in the records of HP or its transfer agent provided by HP in  
19 accordance with the Stipulation.<sup>1</sup> The mailing was conducted in accordance with this Order.<sup>2</sup>

20  
21 <sup>1</sup> Pursuant to the Preliminary Approval Order, the Court preliminarily certified, solely for purposes  
22 of effectuating the Settlement, a Settlement Class consisting of all persons who purchased or  
23 otherwise acquired HP’s publicly traded common stock between August 19, 2011 and November  
24 20, 2012, inclusive. By its Final Judgment and Order Approving Settlement dated November 13,  
2015 (“Judgment”), the Court affirmed its previous determinations and granted final certification to  
the Settlement Class, for purposes of the Settlement only. *See* Judgment, ¶4.

25 <sup>2</sup> *See* Affidavit of Jose C. Fraga Regarding (A) Mailing of the Notice and Proof of Claim Form; (B)  
26 Publication of the Summary Notice; (C) Requests for Exclusion Received to Date; and (D) Proof of  
27 Claim Forms dated September 29, 2015 and Supplemental Affidavit of Jose C. Fraga Regarding (A)  
Mailing of the Notice and Proof of Claim Form; (B) Requests for Exclusion; and (C) Proof of  
Claim Forms Received to Date dated November 3, 2015.

1           Thereafter, the Court held a hearing on November 13, 2015 to consider, among other things,  
 2 whether the proposed Settlement should be granted final approval. By its Judgment, the Court: (i)  
 3 approved the Settlement, in all respects, as fair, reasonable and adequate and in the best interests of  
 4 the Settlement Class Members; (ii) declared the notice procedures to be proper; and (iii) dismissed  
 5 the Consolidated Complaint with prejudice, as against all Defendants. In addition, the Court  
 6 reserved jurisdiction over the allowance, disallowance or adjustment of any Settlement Class  
 7 Member's claim on equitable grounds and any award or distribution of the Settlement Fund. *See*  
 8 Judgment, ¶16. By its Order Approving Plan of Allocation of the Net Settlement Fund dated  
 9 November 13, 2015, the Court approved Lead Counsel's proposed plan for allocating the settlement  
 10 proceeds among eligible Settlement Class Members ("Plan of Allocation").

11           Moreover, the Court authorized Lead Counsel's retention of and appointed GCG to  
 12 supervise and administer the notice procedure, as well as the processing of claims. *See* Preliminary  
 13 Approval Order, ¶7. GCG has consented to this Court's jurisdiction.

#### **THE NET SETTLEMENT FUND**

15           Pursuant to the Stipulation, HP caused the Settlement Amount (i.e., \$100,000,000) to be  
 16 paid into an escrow account established by Lead Counsel. In total, \$162,973.91 in income has been  
 17 earned on the settlement proceeds through June 30, 2017. In addition, the following amounts have  
 18 been paid from the Settlement Fund: (i) \$2,772,530.46 in administrative related expenses;<sup>3</sup> and  
 19 (ii) \$11,911,564.64 in attorneys' fees and expenses awarded by the District Court.<sup>4</sup> As of June 30,  
 20 2017, the balance of the Net Settlement Fund was \$85,478,878.81.

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22           <sup>3</sup> Under the terms of the Stipulation, Lead Counsel was authorized to pay from the Settlement  
 23 Fund, prior to the Effective Date, all reasonable Notice and Administration Costs actually incurred,  
 24 along with any Taxes, up to an aggregate amount of \$2,000,000.00. Following the Effective Date,  
 25 Lead Counsel was authorized to pay from the Settlement Fund, without further approval from the  
 26 Settling Defendants or further order of the District Court, Notice and Administration Costs and  
 Taxes exceeding \$2,000,000.00. *See* Stipulation, ¶17; *see also* Preliminary Approval Order, ¶26  
 ("The Court authorizes payment out of the Settlement Fund of Notice and Administration Costs in  
 accordance with the Stipulation.").

27           <sup>4</sup> Pursuant to its Order Awarding Attorneys' Fees and Litigation Expenses entered November 16,  
 2015, the Court awarded 11% of the Settlement Fund, net of Court-approved Litigation Expenses

**CLAIMS ADMINISTRATION**

In accordance with the Notice, Settlement Class Members wishing to participate in the Settlement were required to complete a Proof of Claim Form (“Claim Form” or “Claim”) and to mail the Claim Form, together with supporting documentation, to the post office box identified in the Notice, which was maintained by GCG. Cirami Decl., ¶5. GCG employees have carefully reviewed, processed and analyzed the Claim Forms submitted in connection with the Settlement. *Id.*, ¶¶6-17. All Claims received by GCG on or before May 31, 2017 have been fully processed in accordance with the Stipulation and the Court-approved Plan of Allocation set forth in the Notice. *Id.*, ¶5.<sup>5</sup> GCG has responded in a prompt manner to all inquiries regarding the Action, the Settlement and the procedures for completing and submitting Claims. *See generally id.*, ¶¶7, 18.

**DEFICIENT AND REJECTED CLAIMS**

As set forth in the accompanying Cirami Declaration, many of the Claims submitted in connection with the Settlement were incomplete, not properly documented, or were otherwise deficient. Cirami Decl., ¶18. For all submitted Claims that were determined to be partially deficient, GCG mailed a “Notice of Rejection of Part of Your Claim” (“Partial Rejection Letter”) to the claimant advising him, her or it of the deficiency with the Claim and requesting submission of the information and/or documentation necessary to complete the Claim. *Id.*, ¶19. For Claims that were determined to be wholly deficient, GCG mailed a “Notice of Rejection of Your Entire Claim” (“Rejection Letter”) to the claimant advising him, her or it that the Claim had been rejected and was not eligible to receive a distribution from the Net Settlement Fund. *Id.*<sup>6</sup> Both the Rejection Letter and Partial Rejection Letter described the deficiency (or, deficiencies) in the Claim and what, if

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(i.e., \$10,887,363.16), and \$1,023,971.29 in Litigation Expenses, which amount included reimbursement to Lead Plaintiff in the amount of \$162,900. The Court also awarded interest on the fees and expenses at the same rate as earned by the Settlement Fund, which calculated to \$230.19.

<sup>5</sup> In anticipation of completing the administration of the Settlement, May 31, 2017 was chosen as the cut-off date, after which no additional Claims would be accepted for processing or considered for inclusion in the Initial Distribution of the Net Settlement Fund. *Id.*, ¶5 n.4.

<sup>6</sup> A sample Rejection Letter and Partial Rejection Letter are attached to the Cirami Decl. as Ex. B.



1 anything, could be done to cure the Claim. *Id.*, ¶20. In addition, both letters advised claimants that,  
 2 if they did not agree with GCG’s administrative determination to reject or partially reject their  
 3 Claim, they had the right to request judicial review of GCG’s administrative determination. *Id.*

4 During the course of this administration, GCG spent considerable time addressing deficient  
 5 Claims and assisting claimants in curing the deficiencies in their Claims in order to be eligible to  
 6 participate in the Settlement. *Id.*, ¶21. As a result of GCG’s efforts, many claimants with Claims  
 7 initially determined to be ineligible to participate in the Settlement, were able to properly complete  
 8 their Claims and are now eligible to receive a payment from the Net Settlement Fund. *Id.*

### 9 **CLAIMANTS SEEKING JUDICIAL REVIEW OF THEIR CLAIMS**

10 As set forth above, both the Rejection Letter and Partial Rejection Letter advised claimants  
 11 that they had the right to request review of GCG’s administrative determination to reject or partially  
 12 reject their Claim. Cirami Decl., ¶20. During this administration, GCG received letters from  
 13 claimants contesting GCG’s administrative determinations and requesting judicial review with  
 14 respect to 35 Claims. *Id.*, ¶34. GCG was able to resolve 30 of the 35 requests for judicial review  
 15 prior to the filing of this motion, by contacting the claimants and explaining GCG’s administrative  
 16 determination to them. *Id.*, ¶¶35, 36. Specifically, of the 35 Claims at issue, claimants for 12 of  
 17 these Claims were able to cure the deficiency (or, deficiencies) in their Claims and their Claims are  
 18 now being recommended to the Court for acceptance, and claimants for the remaining 18 Claims  
 19 affirmatively withdrew their requests for judicial review and their Claims are now being  
 20 recommended to the Court for rejection. *Id.* Accordingly, there are five claimants with outstanding  
 21 requests for judicial review (representing less than .002% of all of the Claims received) (“Disputed  
 22 Claims” or “Disputing Claimants”). *Id.*, ¶36.

23 As set forth in the Cirami Declaration, four of the five Disputed Claims (i.e., Disputed  
 24 Claim Nos. 1 through 4) do not calculate to a Recognized Loss Amount pursuant to the Court-  
 25 approved Plan of Allocation. Cirami Decl., ¶37; *see also* Exs. D-1 through D-4 for copies of  
 26 correspondence relating to these Claims. Specifically, Disputed Claim Nos. 2 and 3 sold their  
 27

1 eligible shares of HP common stock prior to the release of corrective information on August 22,  
 2 2012, and therefore, suffered no damages from the allegations asserted by Lead Plaintiff in the  
 3 Action. *Id.*, ¶¶37(b), 37(c); *see also* Exs. D-2 and D-3.<sup>7</sup> Likewise, the transactions in HP common  
 4 stock claimed by Disputed Claim Nos. 1 and 4 do not calculate to a Recognized Loss Amount  
 5 pursuant to the Plan of Allocation. *Id.*, ¶¶37(a), 37(d); *see also* Exs. D-1 and D-4. Accordingly,  
 6 GCG recommends Disputed Claim Nos. 1 through 4 for rejection. *Id.*, ¶37(a)-(d).

7 While Disputed Claim No. 5 is not being recommended for rejection, the claimant is  
 8 requesting judicial review because their resulting payout will likely fall under the \$10 *de minimis*  
 9 threshold set forth in the Plan of Allocation and, therefore, the claimant will not receive a payout.  
 10 Cirami Decl., ¶37(e); *see also* Ex. D-5. A *de minimis* threshold provision is routinely approved in  
 11 allocation plans for class action settlements, serves an important purpose and is also clearly set forth  
 12 in the Notice.<sup>8</sup> *See e.g., In re Gilat Satellite Networks, Ltd.*, 2007 WL 1191048, at \*9 (E.D.N.Y.  
 13 Apr. 19, 2007) (“*de minimis* thresholds for payable claims are beneficial to the class as a whole  
 14 since they save the settlement fund from being depleted by the administrative costs associated with  
 15 claims unlikely to exceed those costs”).<sup>9</sup> Moreover, the Court previously approved the Plan of  
 16 Allocation, including the \$10.00 *de minimis* provision, and at this time, the judicial review  
 17 mechanism is reserved for claimants who contest the actual application of the Plan of Allocation to  
 18 their Claims, and not for claimants to object to the calculation method approved by the Court.<sup>10</sup>  
 19

20 <sup>7</sup> *See* Ex. A to Cirami Decl., Notice at p. 10, ¶8: For each share of HP Common Stock purchased or  
 21 acquired during the Settlement Class Period, and (A) Sold prior to the release of corrective  
 information on August 22, 2012, the Recognized Loss Amount for each share shall be zero.

22 <sup>8</sup> *See* Ex. A to the Cirami Decl., Notice at p. 12, ¶16: The Net Settlement Fund will be allocated  
 23 among all Authorized Claimants whose prorated payment is \$10.00 or greater. If the prorated  
 24 payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the  
 calculation and no distribution will be made to that Authorized Claimant.

25 <sup>9</sup> *See also In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 463 (S.D.N.Y. 2004) (“at  
 26 some point, the need to avoid excessive expense to the Class as a whole outweighs the minimal loss  
 to the claimants who are not receiving their *de minimis* amounts of relief”).

27 <sup>10</sup> *See* ECF No. 280, ¶5 (“The Court finds and concludes that the formula for the calculation of the  
 claims of Claimants as set forth in the Plan of Allocation provides a fair and reasonable basis upon  
 28

1           Lead Counsel has reviewed Disputed Claim Nos. 1 through 5 and concurs with GCG's  
2 administrative determinations. Lead Counsel concurs with GCG's determination to recommend  
3 Disputed Claim Nos. 1 through 4 for rejection.

#### 4                           ADMINISTRATIVE DETERMINATIONS FOR SUBMITTED CLAIMS

##### 5           **I.       Claims Recommended for Acceptance**

6           A total of 220,117 Claims were received by GCG in connection with the Settlement through  
7 May 31, 2017. Cirami Decl., ¶29.<sup>11</sup> 69,036 of these Claims have been provisionally accepted by  
8 GCG. *Id.*; see also Exs. C-1 and C-2 (listing all Claims being recommended for acceptance and  
9 their Recognized Claim amounts, in Claim number order). Of the 69,036 Claims being  
10 recommended for acceptance and approval by the Court, 4,400 Claims were submitted after the  
11 postmark deadline set forth in the Notice (i.e., October 31, 2015) and received by GCG on or before  
12 May 31, 2017. Cirami Decl., ¶29. Lead Counsel believes that it would be appropriate to allow  
13 these late but otherwise valid Claims to share in the Net Settlement Fund as they were received  
14 while the processing of the timely Claims was ongoing. *Id.*<sup>12</sup>

15           The total Recognized Claims for the 69,036 Claims being recommended for acceptance is  
16 \$254,956,925.76. *Id.*, ¶31. Lead Counsel respectfully requests that this Court approve GCG's  
17 administrative determinations with respect to the Claims being recommended for acceptance as  
18 listed on Exhibits C-1 and C-2 to the Cirami Declaration.

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21           which to allocate the proceeds of the Net Settlement Fund among members of the Settlement Class  
22 with due consideration having been given to administration convenience and necessity.”).

23           <sup>11</sup> As set forth above, May 31, 2017 was selected as the last day Claims would be accepted for  
processing in connection with the Initial Distribution. *Id.*, ¶¶5 n.4, 29 n.7.

24           <sup>12</sup> The Court has discretion to accept Claims submitted after the claims submission deadline.  
25 Pursuant to ¶20 of the Preliminary Approval Order: “Any Settlement Class Member who does not  
26 timely submit a valid Claim Form, shall not be eligible to share in the Settlement Fund, *unless*  
27 *otherwise ordered by the Court, . . .*” (emphasis added). See also Stipulation, ¶26(b) (“All Claim  
Forms must be submitted by the date that will be set by the District Court, unless such deadline is  
extended by Order of the District Court.”).

1 **II. Claims Recommended for Rejection**

2 Of the total Claims received by GCG through May 31, 2017, 151,081 Claims were  
 3 determined to be ineligible and are being recommended for rejection. Cirami Decl., ¶32; *see also*  
 4 Exhibit C-3 (listing all Claims being recommended for rejection and the reasons for rejection, in  
 5 Claim number order).<sup>13</sup> The 151,081 Claims being recommended for rejection were determined to  
 6 be ineligible for the following reasons: (i) 82,800 Claims did not fit the definition of the Settlement  
 7 Class; (ii) 37,559 Claims did not result in a Recognized Claim pursuant to the Court-approved Plan  
 8 of Allocation; (iii) 30,050 Claims were deficient and never cured; and (iv) 672 Claims were  
 9 duplicates of Claims previously submitted. *Id.*, ¶32. Lead Counsel respectfully requests that the  
 10 Court approve GCG's administrative determinations with respect to the Claims being recommended  
 11 for rejection as listed on Exhibit C-3 to the Cirami Declaration.

12 **FEES AND EXPENSES OF CLAIMS ADMINISTRATOR AND TAXES**

13 In accordance with GCG's agreement with Lead Counsel to act as the claims administrator  
 14 in connection with the Settlement, GCG is responsible for, among other things, disseminating  
 15 notice of the Settlement to the Settlement Class, processing Claim Forms, and allocating and  
 16 distributing the Net Settlement Fund to eligible claimants. GCG's outstanding administrative fees  
 17 and expenses incurred in connection with the administration of the Settlement, including processing  
 18 Claims, and expected to be incurred through the Initial Distribution of the Net Settlement Fund  
 19 amount to \$226,511.90. Cirami Decl., ¶47; *see also* Ex. E.<sup>14</sup> Lead Counsel respectfully requests

20 <sup>13</sup> Disputed Claim Nos. 1 through 4 addressed above are included on Exhibit C-3.

21 <sup>14</sup> In the Declaration of Stephen J. Cirami Regarding Notice Plan submitted to the Court in  
 22 connection with preliminary approval of the Settlement, GCG estimated that, based on broad  
 23 assumptions, its total fees and expenses for this administration would be approximately \$2.5  
 24 million. *See* ECF No. 259-6, ¶25 (Mr. Cirami noted in his declaration that "GCG's actual fees and  
 25 expenses may vary depending on whether GCG receives more or fewer claims, as well as a variety  
 26 of other factors, such as whether additional notices are mailed, how many phone calls GCG  
 27 receives, and the number of deficient claims and deficiency notice, among other things."). Through  
 the Initial Distribution, GCG will have incurred a total of \$2,999,042.36 in fees and expenses. This  
 higher cost can be attributed to: (i) a larger volume of claims than originally anticipated (original  
 estimate was based on 200,000 claims and GCG received over 220,000 claims), (ii) increased phone  
 calls and emails; and (iii) a larger volume of deficient claims requiring additional work.

1 that the Court approve GCG's unreimbursed fees and expenses and direct payment of GCG's  
 2 unreimbursed fees and expenses, as well as any Taxes due, prior to the Initial Distribution of the  
 3 Net Settlement Fund to the Settlement Class.

#### 4 DISTRIBUTION PROCESS

5 The Net Settlement Fund is ready to be distributed at this time. Lead Counsel, therefore,  
 6 respectfully requests the Court direct GCG to distribute the Net Settlement Fund to claimants whose  
 7 Claims GCG has recommended for acceptance, as listed on Exs. C-1 and C-2 to the Cirami  
 8 Declaration (i.e., Authorized Claimants) and in accordance with the proposed Distribution Plan set  
 9 forth in ¶¶40-46 of the Cirami Declaration. If GCG's administrative determinations are approved  
 10 by the Court, each of these claimants will receive their *pro rata* share of the Net Settlement Fund  
 11 based on his, her, or its Recognized Claim calculated pursuant to the Plan of Allocation compared  
 12 to the total Recognized Claims of all Authorized Claimants. Cirami Decl., ¶41. As set forth in the  
 13 Plan of Allocation, if an Authorized Claimant's prorated payment calculates to less than \$10.00 it  
 14 will not be included in the calculation and no distribution will be made to the claimant. *Id.*

15 As set forth in the Distribution Plan, Authorized Claimants entitled to receive more than  
 16 \$10.00 but less than \$100.00 will receive their entire distribution amount in the Initial Distribution  
 17 of the Net Settlement Fund ("Claims Paid in Full") and will receive no additional funds in  
 18 subsequent distributions. *Id.*, ¶41 n.15. Authorized Claimants whose distribution amount is  
 19 \$100.00 or more will receive 90% of their distribution amount in the Initial Distribution, with the  
 20 remaining 10% held in reserve ("Reserve") in order to address any unanticipated contingencies such  
 21 as payment of any adjustments to Claims for good cause shown, if necessary. *Id.*, ¶41.

22 It is expected that not all of the checks sent to the Authorized Claimants will be cashed  
 23 promptly and some of these checks will remain uncashed.<sup>15</sup> Following the Initial Distribution, and  
 24

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25 <sup>15</sup> In order to encourage Authorized Claimants to promptly cash their checks, the proposed Order  
 26 Authorizing Distribution of Net Settlement Fund sets forth that all distributions will bear a notation  
 27 "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT CASHED  
 WITHIN 120 AFTER ISSUE DATE." Cirami Decl., ¶43.

1 after GCG has made reasonable and diligent efforts to have Authorized Claimants who are entitled  
2 to participate in the distribution of the Net Settlement Fund cash their distribution checks, any  
3 amounts remaining in the Net Settlement Fund (i.e., from uncashed checks, etc.) along with the  
4 amount remaining in the Reserve, shall be re-distributed one year after the Initial Distribution to  
5 Authorized Claimants who (i) were not Claims Paid in Full; (ii) cashed their payment from the  
6 Initial Distribution; and (iii) would receive at least \$10.00 from such re-distribution, after payment  
7 of any unpaid costs or fees incurred in administering the Net Settlement Fund, including costs or  
8 fees for such re-distribution. Cirami Decl., ¶45; *see also* Ex. A, Notice at p. 12, ¶17.

9 As further set forth in the Plan of Allocation, GCG may make further re-distributions of  
10 balances remaining in the Net Settlement Fund to such Authorized Claimants to the extent such re-  
11 distributions are cost-effective. If it is determined that the re-distribution of funds remaining in the  
12 Net Settlement Fund is not cost-effective, Lead Counsel shall contribute the balance to Investor  
13 Protection Trust, a national non-profit organization, whose missions is to provide independent,  
14 objective investor education to allow all Americans to make informed investment decision, or  
15 another non-profit organization that is approved by the Court. Cirami Decl., ¶46; *see also* Ex. A,  
16 Notice at p. 12, ¶17.

### 17 **RELEASE OF CLAIMS**

18 In order to allow for the full and final distribution of the Net Settlement Fund, it is necessary  
19 to bar any further claims against the Net Settlement Fund beyond the amount allocated to  
20 Authorized Claimants, and to provide that all persons involved in the review, verification,  
21 calculation, tabulation, or any other aspect of the processing of the Claim Forms submitted in  
22 connection with the Settlement of this Action, or who are otherwise involved in the administration  
23 or taxation of the Settlement Fund or the Net Settlement Fund, be released and discharged from any  
24 and all claims arising from such involvement. Accordingly, Lead Counsel respectfully requests this  
25 Court release and discharge all Persons who are involved in the review, verification, calculation,  
26 tabulation, or any other aspect of the processing of the Claims submitted in connection with the  
27

1 Settlement of this Action, or who are otherwise involved in the administration or taxation of the  
 2 Settlement Fund or the Net Settlement Fund from any and all claims arising out of such  
 3 involvement, and, pursuant to the release terms of the Settlement, bar all Settlement Class  
 4 Members, whether or not they are to receive payment from the Net Settlement Fund, from making  
 5 any further claim against the Net Settlement Fund or the parties released pursuant to the Settlement  
 6 beyond the amount allocated to them by the Settlement as approved by the Court.<sup>16</sup>

### 7 **RECORD RETENTION AND DESTRUCTION**

8 Lead Counsel respectfully requests that the Court authorize GCG to destroy paper copies  
 9 and all supporting documentation of Claim Forms one year after the Initial Distribution of the Net  
 10 Settlement Fund and all electronic copies of the same three years after the Initial Distribution of the  
 11 Net Settlement Fund.

### 12 **CONCLUSION**

13 Based on the foregoing, Lead Counsel respectfully requests that the Court approve the  
 14 Motion for Distribution of Net Settlement Fund and enter the [Proposed] Order Authorizing  
 15 Distribution of Net Settlement Fund submitted herewith.

16 DATED: July 7, 2017

Respectfully submitted,

17 KESSLER TOPAZ  
 18 MELTZER & CHECK, LLP

19 /s/ Eli R. Greenstein  
 20 ELI R. GREENSTEIN  
 21 STACEY M. KAPLAN  
 22 PAUL A. BREUCOP

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22 <sup>16</sup> Similar language has been routinely approved by courts in connection with the distribution of  
 23 settlement proceeds. *See, e.g., Mylan Pharms., Inc. v. Warner Chilcott Pub.*, 2015 U.S. Dist.  
 24 LEXIS 185503, at \*7-8 (E.D. Pa. Jan. 21, 2015) (“all persons who were involved in the review,  
 25 verification, calculation, tabulation, or any other aspect of the processing of the claims filed in this  
 26 action, or who are otherwise involved in the administration or taxation of the Net Settlement Fund,  
 27 are hereby released and discharged from any and all claims arising out of such involvement”); *In re*  
*Toyota Motor Corp. Sec. Litig.*, 2014 U.S. Dist. LEXIS 194635, at \*31-32 (C.D. Cal. Aug. 4, 2014)  
 (approving substantially similar language in order authorizing distribution of settlement proceeds);  
*In re: Brocade Sec. Litig.*, No.: 3:05-CV-02042-CRB, Order Authorizing Distribution of the Net  
 Settlement Fund, ECF No. 523, p. 3 (N. D. Cal. Aug. 6, 2010) (Breyer, J.) (same).

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