

forms that were submitted; to audit claims where necessary; to calculate and distribute the refund amounts for valid, timely claims; and to otherwise assist Plaintiffs' Counsel with the claims administration process. HR&S has served in that capacity with respect to the Settlement Agreement. This affidavit, with accompanying exhibits, describes the administration of the Settlement Agreement and the plan for distributing the refund checks to valid claimants, in accordance with the Revised Plan of Administration and Distribution approved by the Court (*See* Final Judgment ¶ 6).

3. This affidavit also provides information concerning the settlement claims process, including: data on the number of claims received; the results of the de-duping process; data on the number of late-filed claims; a description of the audit process and the results of that process; and a summary of the plan to distribute refunds, including data concerning the calculation of the amount of the refunds. Listed below are highlights of some of this information:

- Through September 9, 2011 HR&S has received a total of 10,233,497 proof of claim forms filed on or before May 30, 2008 (*i.e.*, timely-filed claims) (*see* ¶D.1).
- Through September 9, 2011 HR&S has received a total of 48,802 late-filed claims (*see* ¶D.3), which are barred from inclusion in the distribution of the settlement fund by the Court's October 22, 2009 Memorandum and Opinion.
- HR&S implemented an audit process to validate Option 2, Option 3 and Agency/Company claims (*see* ¶¶F.1 to 13). The audit process yielded the following results: (i) a total reduction of 22,805,725 travel days claimed by Option 2 claimants, including 4,922 Option 2 claims entirely rejected; (ii) a total reduction of \$1,616,257,551.17 in claimed foreign transaction amounts by Option 3 claimants, including 770 Option 3 claims entirely rejected; and

(iii) a total reduction of \$852,665,270.76 in claimed foreign transaction amounts by Agency/Company claimants, including 32 Agency/Company claims entirely rejected.

- HR&S implemented claims review and deficiency/rejection procedures to evaluate all claims. This process yielded the following results: (i) 1,372 Option 1 claims rejected; (ii) 933 Option 2 claims rejected; (iii) 10,308 Option 3 claims rejected; and (iv) two Agency/Company claims rejected because both claims failed to provide the required foreign transaction information (*see* ¶E.9).
- HR&S implemented a de-duping process that identified and removed 167,419 duplicate claims (*see* ¶E.4).
- Together, the audit, claims review, deficiency/rejection and de-duping procedures identified 185,758 rejected claims, thereby reducing the number of timely-filed claims to 10,047,739.
- HR&S has determined the net funds available for distribution after accounting for administrative costs, the award of attorneys' fees and costs, taxes, the awards to the Class Representatives, and the reasonably anticipated expenditures required to complete the administration and distribution process to be \$275,613,011.41 (*see* ¶G.6).
- HR&S calculated the Preliminary Payment Calculation amount (*i.e.*, the face value of the claimed refund amounts prior to any pro-ration) of all the claims. This amount totals \$540,523,727.92 (*see* ¶G.9). Because this total exceeds the net funds available for distribution (\$275,613,011.41), HR&S calculated the pro-rated value of all the valid claims, as required by Section 6(f) of the

Revised Plan of Administration and Distribution, using all three reduction tiers. Based on these pro-ration calculations, each valid Option 1 claimant will receive \$18.04 (*see* ¶G.13). Likewise, the minimum refund (“Minimum Payment”) for Option 2, Option 3 and Agency/Company claimants is \$18.04, because under Section 6(e) of the Revised Plan of Administration and Distribution, all Option 2, Option 3 and Agency/Company claimants will receive (after pro-ration) the greater of the value of their claim or the Minimum Payment.

- The results of the pro-rated refund calculations for valid claims are as follows:
 - (i) 7,155,422 Option 1 claims at \$18.04, totaling \$129,083,812.88;
 - (ii) 2,576,895 Option 2 claims ranging from \$18.04 to \$248.52, totaling \$66,196,292.22;
 - (iii) 315,161 Option 3 claims ranging from \$18.04 to \$137,678.53, totaling \$67,038,255.81; and
 - (iv) 261 Agency/Company claims ranging from \$18.04 to \$2,528,665.76, totaling \$13,294,650.50. The total number of claimants receiving \$18.04 is 9,127,836: 7,155,422 Option 1 claimants; 1,914,855 Option 2 claimants; 57,554 Option 3 claimants; and five Agency/Company claimants. Printing and mailing of the refund checks will occur periodically over a sixty (60) day period and will consist of mailing 10,047,739 checks, totaling \$275,613,011.41. Of these checks, 9,631,386 will be checks of \$50.00 or less, and 416,353 will be checks of over \$50.00 (*see* ¶¶G.13, 16 and 17).

B. Notification Process

1. The notification process was described in detail in the January 21, 2008 declaration of Edward J. Radetich, Jr., CPA Regarding the Dissemination of Notice to the Class (Dkt. No. 556).

C. Claims Process

1. This section describes the procedures used to administer and process the claims and other information submitted by class members. As described below, HR&S used different procedures to process paper claims and electronically-submitted claims.

2. All paper claims received through the mail or by fax were sorted by option type. The sorted claims were counted and placed in boxes. The boxes were labeled and recorded in a log.

3. Option 1 paper claims were scanned, and the information was entered into a claims database, including any revisions made by the claimant to the name or address information contained in a pre-printed claim form used in the notification process.

4. Option 2 paper claims were also scanned and entered into the claims database. In addition, data processing personnel performed a validation step by comparing an image of the scanned Option 2 claim form to the information in the database to ensure that the claimant's information was accurate and complete.

5. Option 3 paper claims were scanned and entered into the claims database by HR&S staff.¹ As a mechanism to ensure accurate input of Option 3 claim data, the total claimed transaction amount of each claim was also entered into separate spreadsheets. Where there were

¹ The first tranche of claim forms were sent to potential class members as a "stuffer" in the cardholder's monthly credit card statement. These claim forms (referred to as "Original claim forms") are treated as Option 3 claim forms because they require the same information, *i.e.*, the foreign transaction amounts incurred during the damages period. Unless otherwise specified, all references to Option 3 claims include Original claims.

inconsistencies between the information in the spreadsheets and the claims database, HR&S staff identified the correct information and revised the database and/or spreadsheet as required.

6. Electronically-filed Option 1, Option 2 and Option 3 claims were transmitted directly into the claims database with the claimant identification and claim information as supplied by each claimant. The electronic filing process did not allow a claim to be filed unless the claimant completed all of the required fields on the electronic version of the claim form.

7. Agency/Company claimants were required to submit their claims on a CD or upload the data file directly to HR&S's system. This claims submission procedure was necessary because Agency/Company claimants typically hold a large number of cards. This claim data was entered into a separate claims database.

8. Correspondence was received via mail and through the website. All correspondence was reviewed to determine if any response was required. To date, HR&S has received a total in excess of 134,000 emails and over 72,000 pieces of mail requesting information, providing an address change or responding to a request by HR&S.

D. Claims Received

1. HR&S has received the following number of timely-filed claims:²

Option 1	7,258,915
Option 2	2,633,168
Option 3	341,106
Agency/Company Claims	<u>308</u>
Total Timely Claim Forms Received	<u>10,233,497</u>

² Unless expressly stated otherwise, all references to "claims" in this declaration are to timely-filed claims.

2. The claimed travel days or foreign transaction amounts for the claims identified in Paragraph 1 above (where applicable) are:

Option 2	516,463,926 days
Option 3	\$11,477,589,128.98 transaction amount
Agency/Company	\$4,212,083,411.24 transaction amount

3. Through September 9, 2011 HR&S has received the following number of late-filed claims (claims submitted after the May 30, 2008 filing deadline):

Option 1	30,441
Option 2	15,321
Option 3	2,953
Agency/Company	<u>87</u>
Total Late Claim Forms Received	<u>48,802</u>

E. Deficiency / Rejection Process

1. HR&S reviewed all claims received, and deemed the following claims “deficient:”
 - a. For Option 1, Option 2 and Option 3 claims: The failure to provide all required information on the claim form, *e.g.*, omitting the signature, account number, Social Security Number or the name of the issuing bank, as applicable;
 - b. For Option 3 claims: Any claim where the total claimed foreign transaction amount was less than \$100,000 that did not provide information for foreign transaction amounts by card and/or by time period, as required on the Option 3 form;³

³ All Option 3 claims with claimed transaction amounts greater than \$100,000 were subject to the audit process described in Part F.

- c. For Option 3 and Agency/Company claims: The failure to provide any foreign transaction amount information;
- d. For Option 2 claims: The failure to provide information for Number of Travel Days or Number of Travel Days and Reason(s) for Travel.

A Deficiency letter was sent via first-class mail to each of these claimants stating that their claim would be denied if they did not respond and cure the identified deficiency(ies) within 45 days. Sample Deficiency letters are attached as Exhibit A.

2. HR&S reviewed all claim forms received, and rejected any claim (or a portion of a claim in the event that multiple cards were listed, *e.g.*, for an Option 3 claim) where the information provided by the claimant indicated that a card account was not:

- a. A Visa-, MasterCard- or Diners Club-branded card;
- b. Issued by a U.S.-based Issuer; and/or
- c. Subject to any foreign transactions during the February 1, 1996 through November 8, 2006 damages period.

A Rejection letter was sent via first-class mail to these claimants stating that their claim would be denied in whole or in part if they did not submit information sufficient to resolve the basis for the rejection within 45 days. Sample Rejection letters are attached as Exhibit B.

3. HR&S sent a letter via first-class mail to any Option 3 claimant whose claim contained a mathematical error (and which claim was not otherwise subject to the audit procedure described in Section F). The letter stated that the claim would be accepted as adjusted by correcting for the mathematical error absent a response by the claimant concerning the information for their claim within 45 days. A sample Notification letter is attached as Exhibit C.

4. HR&S performed multiple, detailed searches to identify duplicate claim submissions (*i.e.*, multiple submissions by the same claimant, although the claim data itself need

not be identical). HR&S accepted one of the duplicate claims (where the claimant submitted multiple claims for different amounts, HR&S accepted the larger claim in terms of potential refund), and marked the remaining duplicates as rejected. Of the claims listed in Section D.1 above, the de-duping process identified and removed the following number of duplicate claims:

Option 1	102,121
Option 2	50,418
Option 3	14,867
Agency/Company Claims	<u>13</u>
Total Duplicates Removed	<u>167,419</u>

5. For all late-filed claims, *i.e.*, those claims postmarked after May 30, 2008, a letter was sent via first-class mail notifying the claimant that their claim was rejected pursuant to the Court's Order of October 22, 2009 (Dkt. No. 755). A sample Late Rejection letter is attached as Exhibit D.

6. HR&S searched the claims database to determine if any claims were submitted by Class Members who had opted-out or by known fraudulent filers (based on HR&S' experience from prior settlement administrations). A rejection letter was sent via first-class mail to any claimant who had opted-out and filed a claim or who was a known fraudulent filer, notifying them that their claim was denied. These claimants had 45 days to provide information to dispute the rejection. A sample of this Rejection letter is attached as Exhibit E.

7. HR&S also analyzed the database of filed claims to identify any instances of multiple claims from the same address (including street, city and state or ZIP, and, if filed through the internet, computer IP address), *e.g.*, numerous claims submitted for different named claimants who all are identified as residing at the same location. Any such questionable claim was subject to audit (¶F.1.f, below).

8. If any Deficiency, Rejection or Notification letter was returned as undeliverable, HR&S performed address searches through review of the claim form and associated documents, telephone records, internet research and/or Lexis/Nexis locator services. Letters for these claimants were re-mailed, or re-created and mailed, to the new addresses obtained from these searches. Where an updated address could not be obtained, the claim was deemed “unlocatable” and rejected with no further research performed.

9. Of the claims listed in Section D.1 above, the claims review and deficiency/rejection processes identified and removed the following number of rejected claims:

Option 1	1,372
Option 2	933
Option 3	10,308
Agency/Company Claims	<u>2</u>
Total Rejections Removed	<u>12,615</u>

10. To date, no claimant has contested the rejection of their claim.

F. Audit Process

1. Through its experience as an administrator for numerous antitrust settlements, HR&S routinely develops and implements a case specific audit process for each antitrust settlement it administers. Following discussions with Plaintiffs’ Co-Lead Counsel, HR&S developed a process to audit the below categories of claims:

- a. All Agency/Company claims with foreign transaction amounts totaling more than \$99,999.99;
- b. All Option 3 claims with foreign transaction amounts totaling more than \$399,999.99;
- c. All Option 2 claims with travel days in excess of 3,399 days;

- d. A random sampling of Option 2 claims with travel days in excess of 2,999 days but less than 3,400 days;
- e. Those Option 3 claims with foreign transaction amounts totaling less than \$400,000.00 that also:
 - i. Failed to report the transactions by period,⁴ provided that the total claim was in excess of \$99,999.99; or
 - ii. Claimed the same amount for each reported period, provided that the total claim was in excess of \$99,999.99; or
 - iii. Claimed an unusually large amount for any one reported period, *e.g.*, an abnormal “spike,” provided that this “spike” was at least \$50,000 greater than the average of the amounts provided for the other reported periods; and
- f. Various claims selected for further review based on anything suggesting the claim was “suspicious.”

2. Option 3 and Agency/Company claims subject to audit were required to provide supporting information for a selected audit period. The audit period was determined by selecting the most recent, 12-month period that represented at least 10% of the total amount of the claim. If no 12-month period met these criteria, then 2005/06 became the audit period (*i.e.*, the most recent reporting period during the damages period), provided it was at least 10% of the total amount of the claim. If not, then 1996/97 was the audit period.

3. An Audit Notification letter was sent via first-class mail to each audited claimant. Claimants had 20 days to provide documentation (or other information) supporting their claimed

⁴ The Option 3 claim form required each claimant to report their foreign transaction amounts by credit card for the following periods: (a) 02/01/1996 through 12/31/1997; (b) 1998; (c) 1999; (d) 2000; (e) 2001; (f) 2002; (g) 2003; (h) 2004; and (i) 01/01/2005 through 11/08/2006.

foreign transaction amounts or travel days. Specific information was provided to the claimant based on Option type, as follows:

- a. Option 2 letters identified the total travel days claimed and supplied a grid for the claimant to categorize the reasons for their travel, as required by the Option 2 claim form. The letter requested documentation to support the claim. It also required the claimant to certify that the information they submitted on their claim and in response to the audit request letter was true, complete and correct to the best of their knowledge.
- b. Option 3 letters identified the claimed foreign transaction amount for the audit period and requested documentation to support the claim. It also required the claimant to certify that the information they submitted on their claim and in response to the audit request letter was true, complete and correct to the best of their knowledge.
- c. Agency/Company letters identified the number of cards on the claim, the total claimed foreign transaction dollars, the audit period, the foreign transaction dollars claimed in the audit period and selected additional information. The letter requested documentation to support the claim. It also required the claimant to complete and return a questionnaire, and to certify that the information they submitted on their claim and in response to the audit request letter was true, complete and correct to the best of their knowledge.

Sample Audit Notification letters are attached as Exhibit F.

4. If any Audit Notification letter was returned as undeliverable, HR&S performed address searches through review of the claim form and associated documents, telephone records, internet research and/or Lexis/Nexis locator services. Letters for these claimants were re-mailed

to the new addresses obtained from these searches. Where an updated address could not be obtained, the claim was deemed “unlocatable” and rejected with no further research performed.

5. If the claimant did not respond by the deadline in the letter, HR&S staff sent a follow-up Rejection letter via certified mail. The claimant was given an additional 45 days to respond. Sample Rejection letters are attached as Exhibit G.

6. The audit process also examined whether claims, in whole or in part, were non-allowable due to issues such as: purchases made using ineligible cards (*i.e.* Discover cards, American Express cards, cards issued by non-U.S. Issuers, etc.); purchases made using a card not held by the claimant; transactions made in United States currency (or a currency pegged directly to the U.S. Dollar); transactions made with cash, checks, money orders or travelers checks (for Option 3 and Agency/Company claims); or travel days that were not in a foreign country (for Option 2 claims).

7. HR&S reviewed and analyzed all information provided in response to an Audit Notification letter. If the documentation or responsive information supported the claim, the claim was designated as a valid claim. If the audit process revealed that only a portion of the claim was supported, HR&S reduced the total amount of the claim. Option 2 claims were reduced by the appropriate amount of unsupported travel days. Option 3 and Agency/Company claims were reduced by a percentage derived from the reduced amount of the audited period, *e.g.*, if the audit period was 2004 and the audit result was a 10% reduction in the foreign transaction amount for 2004, then the entire claim was reduced by 10%. If the audit indicated that the claimant’s documentation supported an increased claim amount, then the claim was adjusted upward but only for the supported increased amount for the audited period, *i.e.*, Option 3 and Agency/Company claims were not increased “across the board” based on the increase found for the audit period.

8. Where necessary, HR&S followed-up with the audited claimant, via e-mail or telephone, to explain the audit issue(s) and to discuss possible resolutions.

9. Audit Results letters were sent to claimants notifying them of the results of the audit, including what portion of the claim was allowed and/or rejected. If the claimant did not contest the results reported in this letter, then the Audit Results letter was the final step in the audit process for that claimant. (In the event that the claimant contested the results reported in the Audit Results letter, then the audit process continued and, following additional review and analysis, a Final Audit Result letter was issued to the claimant, *see* ¶ 10 below.) Audit Results letters were sent: (i) via certified mail if the claim was reduced; or (ii) via first-class mail if the claim was accepted in full. The claimant was given 45 days to contest the audit results. Sample Audit Results letters are attached as Exhibit H.

10. If the claimant contested the audit result (after receiving an Audit Results letter), a re-review was performed utilizing any supplemental documents, materials and/or explanations submitted by the claimant. Upon completion of the re-review, a Final Audit Result letter was sent to the claimant explaining the results of the supplemental review. These letters were sent: (i) via certified mail if the claim was reduced; or (ii) via first-class mail if the claim was accepted in full. Sample Final Audit Result letters are attached as Exhibit I.

11. Where an Audit Result letter (¶ 9) or a Final Audit Result letter (¶ 10) was sent via certified mail, if HR&S did not receive proof of delivery or proof of receipt by the claimant for the letter, HR&S attempted to contact the claimant via e-mail and/or telephone. If any correspondence was returned as undeliverable, or the claimant could not be contacted via e-mail or telephone, HR&S performed additional research to determine if an updated address was available. If these searches were able to generate an updated address, the appropriate letter was re-sent via certified mail to the updated address.

12. The results of the audit process for all claims are as follows:

Option 2

Claims Audited	7,712
Days Claimed for Audited Claims	31,409,398
Claims Rejected – No Response to Audit Notification	4,152
Days Rejected – No Response to Audit Notification	17,560,124
Claims Audited – Allowable as Result of Audit	2,790
Claims Audited – Entirely Rejected as Result of Audit	770
Days Allowed for Audited Claims	8,603,673
Days Rejected for Audited Claims	5,245,601
Overall Percentage of Audited Days Allowed	27.39%

Option 3

Claims Audited	2,154
Transaction Amount Claimed for Audited Claims	\$2,336,633,862.65
Claims Rejected – No Response to Audit Notification	537
Transaction Amount Rejected – No Response	\$804,552,152.46
Claims Audited – Allowable as Result of Audit	1,384
Claims Audited – Entirely Rejected as Result of Audit	233
Transaction Amount Allowed for Audited Claims	\$720,376,311.48
Transaction Amount Rejected for Audited Claims	\$811,705,398.71
Overall Percentage of Audited Transactions Allowed	30.83%

Agency/Company

Claims Audited	233
Transaction Amount Claimed for Audited Claims	\$4,071,777,941.03
Claims Rejected – No Response to Audit Notification	16
Transaction Amount Rejected – No Response	\$152,933,840.74
Claims Audited – Allowable as Result of Audit	201
Claims Audited – Entirely Rejected as Result of Audit	16
Transaction Amount Allowed for Audited Claims	\$3,219,112,670.27
Transaction Amount Rejected for Audited Claims	\$699,731,430.02
Overall Percentage of Audited Transactions Allowed	79.06%

13. No claimant has contested the final audit determination.

G. Distribution Calculations

1. The Revised Plan of Administration and Distribution (Dkt. No. 528, Exhibit H), includes an explanation of the methodology to be used to determine how the Net Settlement Fund should be distributed.

2. Based on the claim information in the database, following the results of the deduping, audit, and claim validation processes, HR&S calculated the Preliminary Payment Calculation amount of the allowable claims, *i.e.*, the value of each claim prior to any pro-ration.

3. The combined Preliminary Payment Calculation amount for all valid Option 1 claims is \$178,885,550.00 (7,155,422 allowable Option 1 claims @ \$25.00).

4. The combined Preliminary Payment Calculation amount for all valid Option 2 claims is \$140,676,436.82. The Preliminary Payment Calculation for the Option 2 claims is

derived from the algorithm formulated by Analysis Research Planning Company (“ARPC”).⁵ The algorithm apportions the number of claimed travel days across four travel categories based on the information for reasons and frequency of travel submitted by each Option 2 claimant. The apportioned days are multiplied by an average daily spending amount assigned by ARPC to each of the four travel categories. These amounts are totaled and then multiplied by 1% to determine the refund amount.

5. The combined Preliminary Payment Calculation amount for all valid Option 3 and Agency/Company claims is \$184,124,391.30 and \$36,837,349.80, respectively. These amounts were determined using information supplied by each settling defendant card issuer indicating the applicable foreign transaction fee percentage (typically 1%-3%) based on the date of the foreign transaction and the card used to make the transaction. If the defendant issuer-supplied information did not indicate a specific foreign transaction fee for a given card at a specific time, then a 1% foreign transaction fee was applied to the claimed foreign transaction amount.

6. Next, HR&S determined the net funds available for distribution after subtracting all remaining administrative costs, the award of attorneys’ fees and costs, taxes, and the awards to the Class Representatives. The analysis at Exhibit J indicates that \$275,613,011.41 is available for distribution.⁶ As discussed in greater detail below, the amount available for distribution is less than the Preliminary Payment Calculation total (\$540,523,727.92), requiring

⁵ The declaration of B. Thomas Florence of Analysis Research and Planning Corporation submitted to the Court on December 8, 2008 (Dkt. No. 655, Exhibit C) provided a detailed explanation of the algorithm methodology utilized to determine the Option 2 claims Preliminary Payment Calculation amount.

⁶ Per Exhibit J, the total funds available in escrow are \$335,673,491.41 (\$336,000,000 settlement payment plus \$28,903,590.94 total interest less \$29,230,099.53 expenses paid to date). HR&S also estimates that the interest earned for the funds for July and August 2011 is \$10,000. The actual and estimated expenses, including administrative costs for the refund checks, bank fees, attorneys’ fees (including interest), payment of litigation expenses, costs for an IVR system, and awards to plaintiffs, are \$60,070,480.00. Thus, the amount available for distribution is: \$335,673,491.41 plus \$10,000 less \$60,070,480.00 = \$275,613,011.41.

pro-ration of claims as described in Section 6(f) of the Revised Plan of Administration and Distribution.

7. This calculation includes an adjustment for certain costs initially described in the proposal submitted by HR&S on December 28, 2006. The December 2006 proposal indicated that the cost for each standard letter check was \$0.60 and the cost for each self-mailer (postcard) check was \$0.35. Since the December 2006 proposal, there have been multiple postage increases. As a result, the cost for mailing these two types of checks has increased: \$0.65 for standard checks and \$0.40 for self-mailer checks. These increases are included in the administration costs included in Exhibit J.⁷

8. Also included in projected future administrative costs is an amount to cover an IVR phone system (*i.e.*, a toll-free phone number linking to a recorded message providing information concerning the refund calculations that claimants may access) for a three month period after distribution starts. This cost estimate is based on an analysis of the call volume following the initial notice and claim form mailing in November 2007. The IVR system received over 400,000 calls from December 2007 through February 2008, totaling more than two million minutes. HR&S determined this represented a call volume of slightly over 1% of the total notices mailed, with an average of over five minutes per call. Because the anticipated IVR information providing a detailed explanation of the calculations used in determining the check amounts will be shorter than that used to explain the settlement and claims process, the average call time will be less. The cost of the IVR system used during the claims submission and processing phase was \$1,123,817.50. HR&S recommends that \$200,000.00 should be designated to cover the costs of maintaining an IVR phone system for claimant telephone inquiries concerning the refund

⁷ The projected costs to complete the distribution and resolve any questions from claimants do not include any costs for administering any potential supplemental distribution.

distribution. The IVR system would be terminated at the earlier of: (a) 30 days after the final check is disbursed; or (b) whenever the cost reaches \$200,000.00.

9. In order to calculate the refunds to valid claimants, the \$275,613,011.41 available for distribution must be compared to the total Preliminary Payment Calculation amount for all valid claims (\$540,523,727.92):

	<u>Preliminary Payment Calculation</u>
Option 1 (¶G.3)	\$178,885,550.00
Option 2 (¶G.4)	140,676,436.82
Option 3 (¶G.5)	184,124,391.30
Agency/Company (¶G.5)	<u>36,837,349.80</u>
Total:	<u>\$540,523,727.92</u>

This comparison establishes that, as anticipated, there are insufficient funds to pay the combined Preliminary Payment Calculation amount.

10. Section 6(f) of the Revised Plan of Administration and Distribution provides for three tiers of pro-rating of the Preliminary Payment Calculation amounts where there are insufficient funds to pay all valid claims. The first tier reduction (the “Initially Reduced Payments”; *see* Section 6(f)(ii)(1)) requires any individual claim with a Preliminary Payment Calculation amount in excess of \$225.00 to be reduced to the greater of: (a) 50% of the Preliminary Payment Calculation amount; or (b) \$225.00. The combined results of this first tier reduction are as follows:

	<u>Initially Reduced Payments</u>
Option 1	\$178,885,550.00 ⁸
Option 2	132,790,973.45
Option 3	103,336,279.28
Agency/Company	<u>18,420,419.22</u>
Total:	<u>\$433,433,221.95</u>

This analysis establishes that even after the first tier reduction there are insufficient funds to pay the combined Initially Reduced Payments.

11. Section 6(f)(ii)(2) of the Revised Plan of Administration and Distribution identifies the methodology for the second tier reduction (“Secondary Reduced Payments”). This second tier adjustment requires the following reductions: (a) any claim which was reduced in the first tier of pro-ration (“Initially Reduced Payments”) less than 50% shall be reduced up to 50%; and, in addition, (b) claims for which the Preliminary Payment Calculation amounts were between \$25.01 and \$224.99 (which were not subject to the first tier reduction) shall be reduced up to 50%, but will be no lower than the originally determined Minimum Payment of \$25.00. The results of this second tier reduction are as follows:

	<u>Secondary Reduced Payments</u>
Option 1	\$178,885,550.00
Option 2	91,664,466.53
Option 3	92,852,527.99
Agency/Company	<u>18,418,720.79</u>
Total:	<u>\$381,821,265.31</u>

⁸ Under the Revised Plan of Administration and Distribution, Section 6(f), Option 1 claims are not reduced unless all three tiers of reduction are applied.

This analysis establishes that even after the second tier reduction there are insufficient funds to pay the combined Secondary Reduced Payments.

12. Section 6(f)(ii)(3) of the Revised Plan of Administration and Distribution identifies the methodology for the third, and final, tier reduction. The Preliminary Payment Calculation amount of all claims, as adjusted by the first and second tier reductions, will be further reduced on a pro-rata basis, and the Option 1 claimants are for the first time subject to a reduction in their claim amount. The pro-rata percentage for all valid claims is approximately 72.18%, which is calculated by dividing the net settlement funds available for distribution by the combined Secondary Reduced Payment amount: \$275,613,011.41 divided by \$381,821,265.31 = 72.18%.

13. After applying all three tiers of reductions, HR&S determined that the distribution amount to each Option 1 claimant is \$18.04 (the “Minimum Payment”), which represents the pro-rata reduction (approximately 72.18%) of the \$178,885,550.00 (the Preliminary Payment Calculation @ \$25.00 per valid Option 1 claimant) to the amount available for distribution to the 7,155,422 Option 1 claimants; see below. The combined results of this third tier reduction are as follows:

	<u>Pro-Rata Payment Calculation</u>
Option 1	\$129,083,812.88
Option 2	66,196,292.22
Option 3	67,038,255.81
Agency/Company	<u>13,294,650.50</u>
Total:	<u>\$275,613,011.41</u>

A summary of the results of the pro-rated refund calculations for valid claims is as follows:

(i) 7,155,422 Option 1 claims at \$18.04; (ii) 2,576,895 Option 2 claims ranging from \$18.04 to

\$248.52; (iii) 315,161 Option 3 claims ranging from \$18.04 to \$137,678.53; and (iv) 261 Agency/Company claims ranging from \$18.04 to \$2,528,665.76. The total number of claimants receiving \$18.04 is 9,127,836, as follows: 7,155,422 Option 1 claims; 1,914,855 Option 2 claims; 57,554 Option 3 claims; and five Agency/Company claims. There are a total of 10,047,739 checks, totaling \$275,613,011.41. Of these checks, 9,631,386 will be checks of \$50.00 or less, and 416,353 will be checks of over \$50.00.

14. HR&S has prepared CDs (or DVDs) containing the claim number and Option type, Refund Identification Number (if assigned),⁹ name and address¹⁰, and distribution amount for each allowed claimant. These CDs (or DVDs) are marked as follows: (a) Exhibit K contains the data for all Option 1 claimants; (b) Exhibit L contains the data for all Option 2 claimants; and (iii) Exhibit M contains the data for all Option 3 and Agency/Company claimants. Because these Exhibits contain highly sensitive personal information, Plaintiffs' Co-Lead Counsel will submit them to the Court under seal.

15. HR&S has also prepared a CD (or DVD) containing the claim number and Option type, Refund Identification Number (if assigned), name and address, and rejection code for each rejected claim. A code key to explain the reason for rejection is also included on this CD (or DVD). The CD (or DVD) is marked as Exhibit N. Because Exhibit N contains highly sensitive personal information, Plaintiffs' Co-Lead Counsel will submit the Exhibit to the Court under seal.

⁹ The names of individual cardholders whom the defendant banks identified from their electronic records as having made at least one foreign transaction during the class period (*see* Revised Class and Settlement Notice Plan, Section 1) were labeled by HR&S as Targeted Cardholders. These Targeted Cardholders were given a Refund Identification Number as an identifier in the database.

¹⁰ Prior to the mailing of refund checks, the list of payees will be submitted to the United States Postal Service ("USPS") for updating and standardization (*see* ¶G.16 below) and may be mailed to an address different from the information on the CDs (or DVDs).

16. As described in Section 7 of the Revised Plan of Administration and Distribution, two types of check forms will be used in the distribution. Claimants with U.S. addresses (“domestic claimants”) entitled to receive a payment from the Net Settlement Fund of \$50.00 or less will be sent their distribution amount via a wafer-sealed self-mailer (postcard) check.¹¹ All claimants with a non-U.S. address (regardless of the check amount), and those domestic claimants entitled to receive a payment from the Net Settlement Fund of over \$50.00, will be sent their distribution via a standard, letter-type check. Claimants with the largest refund amounts will be sent their checks using an overnight service. HR&S has provided for a series of security measures to combat potential fraud, including daily reports to HR&S from the bank, a process of identifying any checks that do not match the list of check numbers and amounts given to the bank prior to distribution. All checks over \$50 will also match the payee information to the check list. The list of payees will be submitted to a licensed vendor utilizing the USPS’s National Change of Address database for updated and standardized address information prior to mailing.

17. In terms of the timing of the distribution, the printing of the checks will commence thirty (30) days from the date of the Court’s order approving the distribution, as long as the funds for the distribution (\$275,613,011.41) are available in liquid form in the distribution bank account no later than five (5) days prior to the date the printing of the checks commences, and the costs associated with printing and mailing the refund checks (printing and postage costs in the amount of \$4,329,433.85; bank fees in the amount of \$452,148.26; and costs associated with the operation of an IVR telephone system in the amount of \$200,000.00) are available to HR&S at least ten (10) days in advance of the commencement of printing the checks. This also

¹¹ If the approximately 9.6 million postcard checks were instead mailed via standard, letter-type check, the cost of issuing these checks would increase by approximately \$2,525,000.

assumes that Huntington Bank will be approved as the disbursing agent. The reason is that we have already completed a testing program with the printer and the bank to assure that the checks generated by the printer passed all requirements in the bank's processing systems. HR&S will cause the distribution checks to be mailed via first-class mail to the listed payees over a period of not more than sixty (60) days, commencing within days after the printing of the checks begins. The period of up to sixty (60) days is necessary to accommodate the printing and mailing of over 10 million checks by the printing/mailing agent. The mailings will be issued by geographic location with all check recipients in a given zip code receiving them at or near the same time. HR&S hopes to commence the mailing of the distribution checks on or about November 1, 2011, in advance of the Thanksgiving holiday, to expedite the distribution of the mailed checks, before the year-end holiday surge in mail volume.

18. Any checks over \$150 returned by the USPS as undeliverable will either be (i) mailed to the forwarding address provided by the USPS, or (ii) will be researched for a current address through a locator service, such as a credit reporting bureau or Lexis/Nexis. A check will be re-mailed to all payees for which an updated address is obtained. Where an updated address cannot be obtained, the check will be deemed "unlocatable" and no further research will be performed.

19. All checks will carry the notation "Void after 120 Days." Checks that are not negotiated by the payee after this period will be void (and potentially subject to further re-distribution if feasible and approved by the Court).

20. In order to proceed with the distribution process, Court approval is required for the designation of the bank to provide the required services for the processing of the refund checks. For the reasons discussed below, HR&S recommends that Huntington Bank be selected as the financial institution to provide the banking services because they offer the lowest bid, with

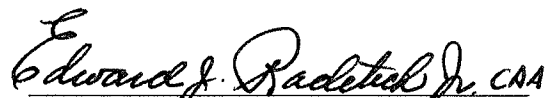
the accompanying favorable earnings credit rate, and they have substantial experience with managing class action settlement funds and distributions.

21. HR&S sought a bank that was large enough to handle the high volume of work required to process the checks and was also not a defendant in the case. It was important that the bank also had the capability to offer “positive pay” security measures to such a large number of checks and could supply daily on-line reporting of checks cleared to the administrator. HR&S contacted four financial institutions requesting a proposal for banking services related to this distribution. The size of the distribution and the use of postcard checks were explained to each of the institutions’ representatives. A list of the services and the pricing for each service were also requested. HR&S received bids from the following financial institutions: (i) The Huntington National Bank (“Huntington Bank”); (ii) Wells Fargo; (iii) PNC Bank; and (iv) The Bancorp Bank. Each institution provided a brief introduction to their company, their qualifications, a description of the services to be provided and their pricing schedule. Each institution was contacted with follow up questions based on their proposal submission. HR&S’s review of the bids, along with follow-up discussions with these banks, indicated that PNC Bank submitted the highest bid; that Huntington Bank and Wells Fargo submitted comparable bids; and that the Bancorp Bank bid was initially the lowest bid. As part of their bid, Huntington Bank stated it would match any lower bid, and it subsequently matched the Bancorp Bank bid, and, in addition, Huntington Bank offered a .10% earnings credit not offered by Bancorp. The earnings credit would be applied between the time Huntington Bank receives the distribution funds from CRIS and the date the distribution commences.

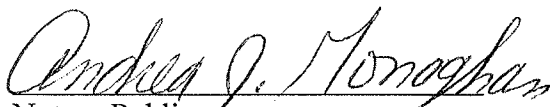
22. Huntington Bank agreed to provide the check processing services at a cost of \$0.045 per cleared check (*e.g.*, if 10 million checks are cleared, the bank charge will be \$450,000.00). The bank also will apply, upon transfer of the settlement funds, the earnings

credit rate for the FDIC-insured account that will hold the funds. That rate was 0.10% (or 10 basis points) for the month of June 2011, which is substantially more favorable than the interest rate provided by the Court Registry Investment Service (“CRIS”) during the same month, which was 0.00173% (or 0.17 basis points). The transfer of funds from the CRIS to Huntington Bank would generate over \$20,000 in earnings credit a month. The funds will be fully protected by the unlimited deposit insurance coverage provided by the FDIC, under the Dodd-Frank Act, which guarantees this protection through December 31, 2012.

23. Huntington Bank is ranked in the top one percent of banks in the country. The bank maintains over 600 offices in 17 states, including an office in New York. The bank also employs a full-time staff that specializes in managing settlement funds and distributions to class members. The Class Action Settlement Team at Huntington Bank has handled more than 600 cases. Over the past several years, HR&S has worked closely with Huntington Bank’s settlement specialists on a number of matters. In each instance, Huntington Bank has discharged its responsibilities in accordance with the highest professional standards.


Edward J. Radetich, Jr., C.P.A.

Sworn to and subscribed before me
this 14th day of September, 2011


Notary Public

