

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

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MICHAEL McCLELLAN and MARTA	:	
McCLELLAN, on behalf of themselves	:	Case No. 8:12-cv-01331-JGB (JEMx)
and others similarly situated,	:	
	:	
Plaintiffs	:	CLASS ACTION STIPULATION
	:	AND SETTLEMENT
v.	:	
	:	
CHASE HOME FINANCE, LLC, CHASE	:	
HOME FINANCE, INC., JP MORGAN	:	
CHASE BANK, N.A., PNC BANK, N.A.,	:	Honorable Jesus G. Bernal
and DOES1-10, INCLUSIVE	:	Honorable John E. McDermott
	:	
Defendants.	:	
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**STIPULATION AND SETTLEMENT AGREEMENT**

IT IS HEREBY STIPULATED AND AGREED, by, between, and among named Plaintiffs Michael and Marta McClellan (“Plaintiffs”), on behalf of themselves and all Settlement Class Members as defined herein, and Defendant JPMorgan Chase Bank, N.A. (on behalf of itself and as successor by merger to Chase Home Finance, LLC and Chase Home Finance, Inc.) (“Chase”), that the lawsuit captioned *McClellan v. JP Morgan Chase Bank, N.A.*, No. 12-1331 CJC, in the United States District Court for the Central District of California (the “Litigation”), and the matters raised by, or which could have been raised by, the Litigation, are settled, compromised, and dismissed on the merits and with prejudice on the terms and conditions set forth in this Settlement Agreement and the Release set forth herein, subject to the approval of the Court.

**1. RECITALS**

1.1. On or about September 12, 2006, Plaintiffs obtained a loan from Washington Mutual Bank, N.A. (“WaMu”) to finance the purchase of their home in California.

1.2. On September 25, 2008, the Federal Deposit Insurance Corporation (“FDIC”) and Chase entered into a Purchase and Assumption Agreement (“P&A Agreement”), through which Chase purchased certain of WaMu’s assets, including the Plaintiffs’ loan, from the FDIC.

1.3. On August 17, 2012, Plaintiffs filed the instant putative class action complaint (the “Complaint”) against Chase and PNC Bank, N.A. (“PNC Bank”).

1.4. Plaintiffs allege that on November 29, 2011, Plaintiffs made a \$1,000 payment to Chase in connection with a short sale of the property secured by Plaintiffs’ loan. Plaintiffs contend that that the \$1,000 short sale payment violated California Code of Civil Procedure Section 580e(b) (“Section 580e(b)”), which became effective on July 15, 2011, because Chase purportedly required the Plaintiffs to pay the money to consent to the short sale.

1.5. In the Litigation, Plaintiffs assert claims for deceit, negligent misrepresentation, a violation of the Consumers Legal Remedies Act, Cal Civ. Code § 1750 *et seq.*, and a violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.* Plaintiffs seek to certify a class of all borrowers in California who were required to make and did make additional monetary payments to Chase as a condition for Chase’s approval of short-sale transactions, in alleged violation of Section 580e(b).

1.6. In response to the Complaint, Chase filed an answer, and, on March 25, 2014, the Court dismissed Plaintiffs’ claims against PNC Bank with prejudice.

1.7. For well over a year, Class Counsel and Chase have been engaged in arms-length settlement discussions, including discussions regarding the scope of the Settlement Class and the composition of the Settlement Class List. As part of these settlement discussions, Chase has reviewed and produced voluminous individualized documents and electronic data requested by Named Plaintiffs to confirm, among other things, certain aspects of the Settlement and to value the Class Settlement Relief.

1.8. Class Counsel has concluded that it is in the best interests of the Class as a whole that the claims asserted in the Litigation be resolved on the terms and conditions set forth in this Agreement. Class Counsel has reached that conclusion after extensive consideration and analysis of the factual and legal issues presented in the Litigation, the substantial benefits that Settlement Class Members will receive as a result of this Settlement, the risks and uncertainties of continued litigation, including any motion for class certification, the expense that would be necessary to prosecute the Litigation through trial and any appeals that might be taken, and the likelihood of success at trial.

1.9. Chase has denied and continues to deny each and every allegation of liability, wrongdoing, and damages, and has factual and legal defenses to all claims and class allegations in the Litigation. Chase maintains and continues to maintain that it has acted in accordance with applicable agreements and governing law. Nonetheless, Chase has concluded that because the continuation of the Litigation would be protracted and expensive, it is desirable that the Litigation be fully and finally settled on a class-wide basis in the manner and upon the terms set forth in this Agreement.

1.10. Without admitting any liability or wrongdoing whatsoever, Chase agrees to the terms of this Agreement, provided that all Released Claims are settled, compromised, and released, in order to resolve all issues relating to the subject matter of the Litigation.

## **2. DEFINITIONS**

As used herein, the following terms have the meanings set forth below.

2.1. “Administrator” or “Settlement Administrator” means a third-party agent or administrator selected by Defendants to help implement and effectuate the terms of this Settlement Agreement.

2.2. “Agreement” or “Settlement Agreement” means this Stipulation and Settlement Agreement, including all exhibits thereto.

2.3. “Attorneys’ Fees and Expenses” means such funds as may be awarded to Class Counsel to compensate them (and all other attorneys for Named Plaintiffs or the Settlement Class) for their fees and all expenses incurred by Named Plaintiffs or Class Counsel in connection with the Litigation.

2.4. “Case Contribution Award” means compensation for the Named Plaintiffs in the Litigation for their time and effort undertaken in the Litigation.

2.5. “Chase” means JPMorgan Chase Bank, N.A. (on behalf of itself and as successor by merger to Chase Home Finance, LLC and Chase Home Finance, Inc.) and all of its past and present divisions, predecessors, subsidiaries, parents, acquired companies, and affiliated companies.

2.6. “Class Settlement Relief” means the relief, including Settlement Payments, that will be made to Settlement Class Members pursuant to this Settlement Agreement.

2.7. “Class Counsel” means the law firms of Atkinson, Andelson, Loya, Ruud, & Romo and Harbin & McCarron.

2.8. “Class Notice” or “Notice” means the program of notice described in Section 6 of this Agreement to be provided to Settlement Class Members, including the Mail Notice and Internet site, which will notify Settlement Class Members, among other things, about their rights to opt out and object to the Settlement, the amount of their Settlement Payment, the preliminary approval of the Settlement, and the scheduling of the Final Approval Hearing.

2.9. “Class Period” means the period of time from July 15, 2011 through the date of the Preliminary Approval of this Settlement.

2.10. “Court” means the United States District Court for the Central District of California.

2.11. “Days” means calendar days, except that, when computing any period of time prescribed or allowed by this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Further, when computing any period of time prescribed or allowed by this Agreement, the last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. All calculations of days and times shall be adjusted to permit compliance by Defendants with the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715, including the notifications of appropriate regulators under 28 U.S.C. § 1715(b) and expiration of the 90-day review period in 28 U.S.C. § 1715 before the Final Approval Hearing is held in the Litigation to review and approve the Settlement.

2.12. “Defendants” mean all of the originally named defendants in the Litigation, including Chase and PNC.

2.13. “Defense Counsel” means Chase’s counsel of record in the Litigation.

2.14. “Final” with respect to the Judgment or to any award of Attorneys’ Fees and Expenses means that the time for appeal or writ review has expired or, if an appeal or petition for review is taken and dismissed or the Settlement (or award of Attorneys’ Fees and Expenses) is affirmed, the time period during which further petition for hearing, appeal, or writ of certiorari can be taken has expired. If the Judgment is set aside, materially modified, or overturned by the Court or on appeal, and is not fully reinstated on further appeal, the Judgment shall not become Final.

2.15. “Final Approval” means the entry of the Judgment approving the Settlement after the Final Approval Hearing is conducted.

2.16. “Final Approval Hearing” means the hearing held by the Court to determine whether the terms of this Agreement are fair, reasonable, and adequate for the Settlement Class as a whole, whether the Settlement should be granted final approval, and whether the Judgment should be entered.

2.17. “Final Settlement Date” means the date on which the Judgment in this case becomes Final (as defined in Paragraph 2.14). If no appeal has been taken from the Judgment, the Final Settlement Date means the date on which the time to appeal has expired. If any appeal has been taken from the Judgment, the Final Settlement Date means the date on which all appeals, including petitions for rehearing, petitions for rehearing *en banc*, and petitions for

certiorari or any other form of review, have been finally disposed of in a manner that affirms the Judgment.

2.18. “Judgment” means the final Order and Judgment to be entered by the Court pursuant to the Settlement and in substantially similar form as Exhibit C.

2.19. “Litigation” means the action captioned *Michael and Marta McClellan v. JP Morgan Chase Bank, N.A., et al.*, Case No. SACV12-1331 (C.D. Cal.), pending before the Honorable Judge Bernal in the Central District of California.

2.20. “Mail Notice” means the “Notice” that is mailed by the Settlement Administrator to Settlement Class Members, in substantially the form attached as Exhibit A to this Agreement and/or as ultimately approved by the Court. Mail Notice shall be mailed within 30 days after the entry of the Preliminary Approval Order and not less than 90 days before the date set by the Court for the Final Approval Hearing.

2.21. The “Mail Notice Date” shall be the last date upon which Mail Notice can be disseminated.

2.22. “Named Plaintiffs” or “Plaintiffs” means Michael and Marta McClellan.

2.23. “Notice and Administrative Costs” means the reasonable and authorized costs and expenses of disseminating and publishing the Class Notice in accordance with the Preliminary Approval Order, and all reasonable and authorized costs and expenses incurred by the Settlement Administrator in administering the Settlement.

2.24. “Objection Deadline” means the date identified in the Preliminary Approval Order and Class Notice by which a Settlement Class Member must serve written objections, if

any, to the Settlement in accordance with Section 11 of this Agreement to be able to object to the Settlement. The Objection Deadline shall be sixty (60) days after the Mail Notice Date.

2.25. “Opt-Out Deadline” means the date identified in the Preliminary Approval Order and Class Notice by which a Request for Exclusion must be filed in writing with the Settlement Administrator in accordance with Section 10 of this Agreement in order for a Settlement Class Member to be excluded from the Settlement Class. The Opt-Out Deadline shall be sixty (60) days after the Mail Notice Date.

2.26. “Parties” means Named Plaintiffs and Chase.

2.27. “Preliminary Approval Order” means the order in substantially similar form as Exhibit B and providing for, among other things, preliminary approval of the Settlement as fair, reasonable, and adequate; preliminary certification of the Settlement Class for settlement purposes only; dissemination of the Class Notice to the Settlement Class; and finding that the proposed Class Notice is reasonably calculated to apprise the Settlement Class Members of the pendency of the Litigation, the material terms of the proposed Settlement, and the Settlement Class Members’ options and rights with respect thereto.

2.28. “Preliminary Approval Application” means Named Plaintiffs’ motion for the Court to preliminarily approve the Settlement and to enter the Preliminary Approval Order, including all exhibits and documents attached thereto. Named Plaintiffs’ Preliminary Approval Application shall be filed on or before February 19, 2015.

2.29. “Release” or “Releases” means the releases of all Released Claims by the Releasing Persons against the Released Persons, as provided for in Section 9 of the Settlement Agreement.



2.30. “Released Claims” means all claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, penalties, attorney’s fees and costs, liens, judgments, demands, and any other forms of liability released pursuant to Section 9 of the Settlement Agreement.

2.31. “Released Persons” means: (a) Chase and each of its respective past or present divisions, parents, agents, subsidiaries, predecessors, investors, parent companies, acquired companies, and affiliated companies (which shall include any person or entity which controls, is controlled by, or is under common control with any such party), including, but not limited to, Chase Home Finance, LLC, Chase Home Finance, Inc., any direct or indirect subsidiary of Chase, and each of their respective past or present divisions, parents, subsidiaries, predecessors, investors, parent companies, acquired companies, and affiliated companies, and all of the officers, directors, employees, agents, brokers, distributors, representatives, and attorneys of all such entities; (b) any other parties who acted on behalf of Chase, or any of its respective past or present divisions, parents, subsidiaries, predecessors, investors, parent companies, acquired companies, and affiliated companies (which shall include any person or entity which controls, is controlled by, or is under common control with any such party), in any short sale of property in California; and (c) the owner or holder of the mortgage loan at the time of each Settlement Class Member’s short sale.

2.32. “Releasing Persons” means Named Plaintiffs, all Settlement Class Members who do not properly and timely opt out of the Settlement, and their respective family members, heirs, administrators, successors, and assigns.

2.33. “Request for Exclusion” means a written request from a Settlement Class Member that seeks to exclude the Settlement Class Member from the Settlement Class and that complies with all requirements in Section 10 of this Agreement.

2.34. “Seller Contribution” means the amount of money paid by a mortgagor or trustor over and above the proceeds from a short sale of property securing the mortgage loan.

2.35. “Settlement” or “Stipulation of Settlement” means the settlement set forth in this Agreement.

2.36. “Settlement Class” or “Class” means all members of the class of borrowers in the Litigation that will be certified by the Court for settlement purposes. The Settlement Class shall consist of all individuals identified on the agreed upon Settlement Class List, which reflects each California resident who, on or after July 15, 2011: (a) was a borrower on a home loan or home equity line of credit (either owned or serviced by Chase) that was secured by a mortgage or deed of trust on property located within the State of California; (b) entered into and completed a short sale of the property with Chase’s written consent; and (c) allegedly was required to make a payment to Chase in some amount over and above the proceeds from the short sale, in order to obtain written consent for the short sale. Excluded from the Settlement Class are any: (i) individuals who are or were during the Class Period officers or directors of the Defendants or any of their respective affiliates; (ii) any justice, judge, or magistrate judge of the United States or any State, their spouses, and persons within the third degree of relationship to either of them, or the spouses of such persons; (iii) all borrowers whose home loan or home equity line of credit was owned by a government-sponsored enterprise at the time of the short sale; and (iv) all borrowers who file a timely and proper request to be excluded from the Settlement Class in accordance with Section 10 of the Settlement Agreement.

2.37. “Settlement Class List” means the list of individuals who are members of the Settlement Class, as agreed upon by the Parties during their extensive settlement negotiations.

2.38. “Settlement Class Member” means any member of the Settlement Class.

2.39. “Settlement Class Member Payment List” means the list of the Settlement Class Members who have not opted out and who will receive Settlement Payments in the manner described in Section 4 of this Agreement.

2.40. “Settlement Payment” means the monetary settlement relief that each Settlement Class Member shall receive under this Settlement Agreement.

2.41. “Settlement Website” means the Internet site created by the Settlement Administrator pursuant to this Agreement to provide information about the Settlement, which shall have the Uniform Resource Locator of [McClellanSettlementInfo.com](http://McClellanSettlementInfo.com).

2.42. “Settling Parties” means, collectively, Chase, Named Plaintiffs, all Settlement Class Members, and all Releasing Persons.

### **3. CONDITIONS AND OBLIGATIONS RELATING TO THE EFFECTIVENESS OF THE SETTLEMENT**

3.1. This Settlement Agreement is expressly contingent upon the satisfaction, in full, of the material conditions set forth below.

3.2. Condition No. 1: District Court Approval. The Settlement must be approved by the Court in accordance with the following steps:

3.2.1. Application for Preliminary Approval of Proposed Settlement, Class Certification, and Class Notice. After good faith consultation with counsel for Defendants, Class Counsel will present a Preliminary Approval Application to the Court by February 19, 2015. The Preliminary Approval Application shall include a proposed Class Notice, in substantially

similar form as Exhibit A, and a proposed Preliminary Approval Order, in substantially similar form as Exhibit B. The Settling Parties shall, in good faith, take reasonable steps to secure expeditious entry by the Court of the Preliminary Approval Order and shall request that the Court schedule a Final Approval Hearing no earlier than ninety (90) days after the service of the required Notices under 28 U.S.C. § 1715.

3.2.2. Settlement Class Certification. In connection with the proceedings on Preliminary and Final Approval of the proposed Settlement, the Named Plaintiffs shall seek orders (preliminary and final, respectively) certifying the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure for purposes of this Settlement only.

3.2.3. Entry of Preliminary Approval Order. The Court shall enter a Preliminary Approval Order in substantially similar form as Exhibit B, which shall, among other things:

- a. Certify for purposes of a settlement a statewide Settlement Class, approving the Named Plaintiffs as class representatives and appointing Class Counsel, pursuant to Fed. R. Civ. P. 23;
- b. Preliminarily approve the Settlement as fair, reasonable and adequate;
- c. Order the issuance of Class Notice to the Settlement Class, and determine that such Notice complies with all legal requirements, including, but not limited to, the Due Process Clause of the United States Constitution;
- d. Schedule a date and time for a Final Approval Hearing to determine whether the Preliminary Approval Order should be finally approved by the Court;

e. Require Settlement Class Members who wish to exclude themselves to submit an appropriate and timely written request for exclusion by the Opt-Out Deadline, as directed in the Settlement Agreement and Class Notice, and advise that a failure to do so shall bind those Settlement Class Members who remain in the Settlement Class;

f. Require Settlement Class Members who wish to object to the Settlement Agreement to submit an appropriate and timely written objection by the Objection Deadline, as directed in the Settlement Agreement and Class Notice, and advise that a failure to do so shall prevent those Settlement Class Members from objecting;

g. Require attorneys representing any Settlement Class Member, at the Class Member's expense, to file a notice of appearance;

h. Require Settlement Class Members who wish to appear at the Final Approving Hearing to object to the Settlement Agreement to file a Notice of Intention to Appear;

i. Authorize the Settling Parties to take all necessary and appropriate steps to establish the means necessary to implement the Settlement Agreement; and

j. Issue related orders to effectuate the preliminary approval of the Settlement Agreement.

3.2.4. Issuance of Class Notice. Pursuant to the Preliminary Approval Order to be entered by the Court, the Settlement Administrator shall cause the Class Notice to be issued in accordance with Section 6 below.

3.2.5. Final Approval Hearing. In connection with the Preliminary Approval Application, the Settling Parties shall request that the Court schedule and conduct a hearing after dissemination of Class Notice, at which it will consider whether the Settlement is fair,

reasonable, and adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure. Specifically, Named Plaintiffs, after good faith consultation with counsel for all Defendants, shall request that, on or after the Final Approval Hearing, the Court: (i) enter the final Judgment, granting Final Approval of the Settlement and dismissing with prejudice this Litigation; (ii) determine the legal fees and expenses that should be awarded to Class Counsel as contemplated in the Settlement Agreement; and (iii) determine the Case Contribution Award, if any, that should be awarded as contemplated by the Settlement Agreement. Any application for Attorneys' Fees and Expenses shall be made at least fifteen (15) days prior to the Objection Deadline. The Settling Parties agree to support entry of final Judgment. The Settling Parties will reasonably cooperate with one another in seeking entry of the final Judgment.

3.3. Condition No. 2: Finality of Judgment. The Court shall enter a final Judgment in substantially similar form as Exhibit C. The final Judgment must be Final in accordance with Paragraph 2.14 above, and shall, among other things:

- a. Find that (1) the Court has personal jurisdiction over all Settlement Class Members; (2) the Court has subject matter jurisdiction over the claims asserted in this Litigation; and (3) venue is proper;
- b. Finally approve the Settlement Agreement, pursuant to Fed. R. Civ. P. 23, as fair, reasonable, and adequate;
- c. Finally certify the Settlement Class for settlement purposes only;
- d. Find that the form and means of disseminating the Class Notice complied with all laws, including, but not limited to, the Due Process Clause of the United States Constitution;

e. Enter final Judgment with respect to the claims of all Settlement Class Members and dismiss the claims of all Settlement Class Members and the Litigation with prejudice;

f. Make the Releases in Section 9 of the Settlement Agreement effective as of the date of the final Judgment;

g. Permanently bar and enjoin Named Plaintiffs and all Settlement Class Members who have not opted out, from filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise) any action in any jurisdiction based on or relating to any of the Released Claims or the facts and circumstances relating thereto;

h. Permanently bar and enjoin Named Plaintiffs and all Settlement Class members who have not opted out from organizing Settlement Class Members, or soliciting the participation of Settlement Class Members, in a separate class for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in any jurisdiction) based on or relating to any of the Released Claims or the facts and circumstances relating thereto;

i. Find that, by operation of the entry of the Judgment, Named Plaintiffs and all Settlement Class Members shall be deemed to have forever released, relinquished, and discharged the Released Persons from any and all Released Claims, including all claims arising out of, relating to, or in connection with the initiation, settlement, prosecution, or dismissal of the Litigation.

j. Authorize the Settling Parties to implement the terms of the Settlement Agreement;

k. Retain jurisdiction relating to the administration, consummation, enforcement, and interpretation of the Settlement Agreement, the final Judgment, and for any other necessary purpose; and

l. Issue related orders to effectuate the Final Approval of the Settlement Agreement and its implementation.

#### **4. CLASS SETTLEMENT RELIEF**

4.1. In consideration for the Releases set forth in Section 9, Chase shall make Settlement Payments to all Settlement Class Members pursuant to the terms and conditions set forth in this Section.

4.2. Chase shall pay each Settlement Class Member a Settlement Payment in the amount of his or her Seller Contribution. Payments to each Settlement Class Member shall be determined based upon Chase's records. If no Settlement Class Members opt out of the Settlement Class pursuant to Section 10, the total amount of Settlement Payments shall be \$305,289.19.

4.3. Settlement Class Members may contest the amount of their Settlement Payment by providing written documentation to the Settlement Administrator within 30 days after the Mail Notice Date, with a copy to Class Counsel and Chase Counsel. If a Settlement Class Member provides timely written documentation regarding a Settlement Payment that conflicts with Chase's records, the Parties shall use their best efforts to resolve the dispute within 10 days of receipt of the Settlement Class Member's timely written documentation. If no resolution is reached within those 10 days, the Settlement Payment shall be based upon Chase's records. Class Counsel shall notify the Settlement Class Member who contested his or her Settlement Payments of this determination within 15 days of receipt of this documentation, so that the



Settlement Class Member can make a determination as to whether to opt out of the Settlement Class by the Opt-Out Deadline.

4.4. Within 10 days after Preliminary Approval of the Settlement, Chase shall provide to the Settlement Administrator the Settlement Class List in electronic format, which shall consist of, among other things, all Settlement Class Members, the amount of their Seller Contribution, and their last known mailing address.

4.5. At least 15 days prior to the hearing on Final Approval, the Settlement Administrator shall prepare and disseminate to counsel an initial Class Member Payment List that shall identify: (a) each Settlement Class Member; (b) the Settlement Payment for each Settlement Class Member; (c) the deliverable address for each Settlement Class Member; and (e) any Settlement Class Members who have opted out of the Settlement Class.

4.6. Within 5 days following the Final Settlement Date, the Class Administrator shall prepare and disseminate to counsel a final Class Member Payment List.

4.7. Chase shall fund all amounts required by the Settlement Administrator for distribution of Settlement Payments to Settlement Class Members.

4.8. If for any reason the total amount of Settlement Payments on the initial or final Class Member Payment List exceeds \$305,289.19 or if, for any other reason, the total amount of Settlement Payments that Chase is obligated to make to Settlement Class Members exceeds \$305,289.19, Chase shall have the right, and it may, within its sole discretion, terminate this Settlement and have this Settlement Agreement deemed null and void.

4.9. Within 30 days following the Final Settlement Date, the Settlement Administrator shall send checks to each Settlement Class Member on the Class Member Payment List. Checks shall be valid for 90 days and then shall automatically expire.

4.10. After the 90-day check cashing period expires, the Settlement Administrator shall re-issue checks within 45 days to any Settlement Class Members who did not negotiate their initial checks. These checks shall be valid for 90 days and then shall automatically expire.

4.11. If the re-issued check is not negotiated within 90 days, an escheatment process will follow consistent with applicable law.

## **5. RETENTION OF SETTLEMENT ADMINISTRATOR AND COSTS**

5.1. All Notice and Administrative Costs shall be paid by Chase.

5.2. The Settlement Administrator shall administer the Settlement in a cost-effective and timely manner. Without limiting any of its other obligations as stated herein, the Settlement Administrator shall be responsible for Mail Notice, administration of Claim Settlement Relief, and providing all other related support, reporting, and administration as further stated in this Agreement. Chase may direct the Settlement Administrator to assist with various additional administrative tasks in implementing the Settlement as it deems appropriate in its sole discretion.

5.3. Chase will coordinate with the Settlement Administrator to provide Mail Notice to the Settlement Class, as provided in this Settlement Agreement. Because the Settlement Class List and/or other information that will be provided to the Settlement Administrator will consist of confidential information, non-public personal information, and other information protected by privacy laws, the Settlement Administrator will execute a non-disclosure agreement and will take all reasonable steps to ensure that any information provided to it by Defendants will be used solely for the purpose of effecting this Settlement. The Settlement Class List provided to the Settlement Administrator shall also be provided to Class Counsel; provided, however, that the Settlement Class List shall be designated "Attorneys' Eyes

Only” pursuant to the Stipulation and Order Governing the Designation and Handling of Confidential Information, and shall not be provided to Named Plaintiffs or any Settlement Class Member. The Settlement Administrator shall administer the Settlement in accordance with the terms of this Settlement Agreement and, without limiting the foregoing, shall treat any and all documents, communications, and other information and materials received by Chase in connection with the administration of the Settlement as confidential and shall not disclose any or all such documents, communications, or other information to any person or entity except as provided for in this Settlement Agreement or by court order.

5.4. W9 Forms. The Settlement Administrator shall complete and provide to Defendants any W9 forms necessary for Chase to pay for the Notice and Administrative Costs and to otherwise implement this Settlement.

## **6. NOTICE TO THE CLASS**

6.1. Mail Notice. Subject to the requirements of the Preliminary Approval Order, the Settlement Administrator shall distribute a Mail Notice, by first-class mail, to each member of the Settlement Class, based upon the last known mailing address in Chase’s electronic records. Subject to the final approval of the Court, the form of the Mail Notice agreed upon by the Parties to be sent to each Settlement Class Member is attached as Exhibit A to this Agreement (provided that the font size, folding, and other printing elements or presentation may be adjusted to accommodate a booklet format and for efficient envelope and postage considerations).

6.2. Timing. Mail Notice shall be mailed by first-class mail by the Settlement Administrator no later than 30 days after the entry of the Preliminary Approval Order and at

least 90 days before the date set by the Court for a Final Approval Hearing regarding the Settlement.

6.3. Address. The Class Notice shall be sent to each Settlement Class Member at his or her last known address, based upon information in Chase's records, and, if available, to his or her last known email address.

6.4. Undeliverable Notice. In those instances where the Class Notice is returned as undeliverable, the Settlement Administrator shall utilize the National Change of Address database (the "NCOA") in an attempt to obtain better addresses for such returned Notices. Should the NCOA show a more current address, the Settlement Administrator shall post the returned Mail Notice to the more current address. If the NCOA does not show a more current address, the Settlement Administrator shall try to contact the Settlement Class Member telephonically to obtain a more current address. If a more current address is obtained telephonically, any communications, including any Settlement Payments, shall be sent to that address.

6.5. Content. The Mail Notice shall, among other things, contain the following:

- a. The amount of the Settlement Payment for each Settlement Class Member;
- b. Explanation that consistent with Paragraph 4.3, if the Settlement Class Member disputes the Settlement Payment, the Settlement Class Member may so advise the Settlement Administrator in writing within 30 days after the Mail Notice Date and provide back-up documentation to support his or her position;

- c. Explanation that the Settlement Class Members must keep the Settlement Administrator apprised of their correct address at all times until receipt of their Settlement Payment;
- d. Description of how Settlement Class Members so desiring may opt out or object to the Settlement;
- e. Short, plain statement of the background of the Litigation and the proposed Settlement;
- f. Description of the Class Settlement Relief as set forth in this Agreement;
- g. Explanation to Settlement Class Members that, if they do not exclude themselves from the Settlement Class, they shall release their claims against the Released Defendants in accordance with Section 9 of this Settlement Agreement;
- h. Description of the procedures for participating in the Settlement and the rights of Settlement Class Members, including their right to opt out or object to the Settlement;
- i. Explanation of the impact of the proposed Settlement on any existing litigation, arbitration, or other proceeding;
- j. Statement that any Class Settlement Relief under the Settlement is contingent on the Court's Final Approval of the proposed Settlement and the final Judgment becoming Final (within the meaning of Paragraph 2.14).
- k. Explanation of the procedures for opting out of the Settlement, including that so-called "mass" or "class" opt outs shall not be allowed;

l. Identifying of the date and time for the Final Approval Hearing;  
and

m. Explanation that any objection to the Settlement and any papers submitted in support of said objection will be considered only if the Settlement Class Member making an objection complies with the requirements in Section 11 of this Settlement Agreement.

6.6. Settlement Website. No later than the posting of the Mail Notice, the Settlement Administrator shall establish the Settlement Website, which shall contain, among other things, copies of the Complaint, the Settlement Agreement and Exhibits, the Mail Notice, and other Litigation documents. The Settlement Website shall also prominently display contact information for Class Counsel and shall direct all questions about the Class Settlement to Class Counsel. The Settlement Website shall have a Uniform Resource Locator which identifies the Settlement Website as McClellanSettlementInfo.com. The Settlement Website shall remain open and accessible through the expiration period of all issued and reissued Settlement checks.

6.7. Information Available to Class Counsel. Class Counsel shall have the right to interact directly with the Settlement Administrator regarding the administration of this Settlement, provided that Chase is notified of all such interactions. Nothing in this Paragraph or this Settlement Agreement shall authorize the Settlement Administrator to deviate from the restrictions on disclosure of confidential, nonpublic, or private information as set forth in Paragraph 5.3..

## 7. COVENANTS

The Settling Parties covenant and agree as follows:

7.1. Covenants Not to Sue. Named Plaintiffs and the Settlement Class covenant and agree: (i) not to file, commence, prosecute, intervene in, or participate in (as class members or

otherwise) any action in any jurisdiction based on or relating to any of the Released Claims, or the facts and circumstances relating thereto, against any of the Released Persons; (b) not to organize or solicit the participation of Settlement Class Members in a separate class for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in any jurisdiction) based on or relating to any of the Released Claims or the facts and circumstances relating thereto; and (c) that the foregoing covenants and this Agreement shall be a complete defense to any of the Released Claims against any of the Released Persons.

7.2. Cooperation. The Settling Parties agree to cooperate reasonably and in good faith, with the goal of obtaining entry of a final Judgment as quickly as is reasonably practicable and of expeditiously reaching agreement on the matters requiring mutual agreement as set forth in this Agreement, including, but not limited to, the expeditious agreement to the terms of all class notice documents and settlement administration protocols, and the preparation and execution of all other reasonable documents necessary to achieve Final Approval of the Settlement by the Court.

## **8 REPRESENTATIONS AND WARRANTIES**

### 8.1. Representations and Warranties.

8.1.1. Named Plaintiffs represent and warrant that they are the sole and exclusive owners of their own Released Claims and that they have not assigned or otherwise transferred any interest in any of the Released Claims against any of the Released Persons, and further covenant that they will not assign or otherwise transfer any interest in any of Named Plaintiffs' Released Claims.

8.1.2. Named Plaintiffs represent and warrant that they have no surviving claim or cause of action against any of the Released Persons with respect to any of the Released Claims.

8.2. The Settling Parties' Representations and Warranties. The Settling Parties, and each of them on his, her, or its own behalf only, represent and warrant:

8.2.1. That they are voluntarily entering into the Settlement Agreement as a result of arm's-length negotiations among their counsel;

8.2.2. That in executing the Settlement Agreement, they are relying solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof;

8.2.3. That they have not been influenced to any extent whatsoever in executing the Settlement Agreement by representations, statements, or omissions pertaining to any of the foregoing matters by any Party or by any person representing any party to the Settlement Agreement; and

8.3. Each of the Settling Parties assumes the risk of mistake as to facts or law.

## **9. RELEASES**

9.1. Released Claims of Settlement Class. Upon the Final Settlement Date, each member of the Settlement Class, other than the Named Plaintiffs, shall, by operation of the final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged the Released Persons from any and all claims, actions, causes of action, suits, debts, sums of money, payments, obligations, promises, damages, penalties, attorney's fees and costs, liens, judgments, and demands of any kind whatsoever that each member of the Settlement Class may have on or before the Final Settlement Date or may have



had in the past, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis, whether past or present, mature or not yet mature, known or unknown, suspected or unsuspected, whether based on federal, state, or local law, statute, ordinance, regulations, contract, common law, or any other source, that were or could have been sought or alleged in the Litigation or that relate, concern, arise from, or pertain in any way to any short sale of any property in California.

9.1.1. The Release in Paragraph 9.1 shall include, but not be limited to, all claims related to any payments made in connection with any short sale of any property in California; any correspondence from Chase regarding any short sale of any property in California; any breaches of any contracts regarding any short sales of any property in California; any representations or omissions by Chase to any Settlement Class Member in connection with any short sale of any property in California, including, but not limited to, any representations or omissions about the need or obligation for Settlement Class Members to pay additional compensation beyond the proceeds of the short sale; any alleged violations of § 580e of the California Code of Civil Procedure or any claims based upon any such alleged violations; and any alleged fraud, deceit, or deceptive, unfair, unlawful, or otherwise improper conduct in connection with any short sale of any property in California.

9.1.2. Nothing in Paragraph 9.1 shall be deemed a release of any Settlement Class Member's respective rights and obligations under this Agreement.

9.2. Released Claims of Named Plaintiffs. Upon the Final Settlement Date, Named Plaintiffs, on behalf of themselves, their family members, heirs, guardians, assigns, executors, administrators, predecessors, and successors, hereby release and discharge the Released Persons

from any and all claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, penalties, attorney's fees and costs, liens, judgments, and demands of any kind whatsoever that the Named Plaintiffs may have on or before the Final Settlement Date or may have had in the past, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis, whether past or present, mature or not yet mature, known or unknown, suspected or unsuspected, whether based on federal, state, or local law, statute, ordinance, regulations, contract, common law, or any other source. In agreeing to this Release, Named Plaintiffs explicitly acknowledge that unknown losses or claims could possibly exist and that any present losses may have been underestimated in amount or severity.

9.2.1. The Release in Paragraph 9.2 shall include, but not be limited to, all claims related to any payments made in connection with any short sale of any property in California; any correspondence from Chase regarding any short sale of any property in California; any breaches of any contracts regarding any short sales of any property in California; any representations or omissions by Chase to Named Plaintiffs in connection with any short sale of any property in California, including, but not limited to, any representations or omissions about the need or obligation for Named Plaintiffs to pay additional compensation beyond the proceeds of the short sale; any alleged violations of § 580e of the California Code of Civil Procedure or any claims based upon any such alleged violations; and any alleged fraud, deceit, or deceptive, unfair, unlawful, or otherwise improper conduct in connection with any short sale of any property in California.

9.2.2. Nothing in Paragraph 9.2 shall be deemed a release of Named Plaintiffs' respective rights and obligations under this Agreement.

9.2.3. The Named Plaintiffs and Class Counsel further represent that there are no outstanding liens or claims against the Litigation, it being recognized that the Named Plaintiffs will solely be charged with the responsibility to satisfy any other liens or claims asserted in the Litigation.

9.3. Without in any way limiting their scope, these Releases cover by example and without limitation, any and all claims for monetary or punitive damages; any and all claims for attorneys' fees, costs, expert fees, or consultant fees, interest, or litigation fees; and any and all claims for any other fees, costs, and/or disbursements incurred by Class Counsel, the Named Plaintiffs, or any Settlement Class Members in connection with or related in any manner to the Litigation, the Settlement of the Litigation, the administration of such Settlement, and/or the Released Claims, except to the extent otherwise specified in this Agreement.

9.4. In connection with the foregoing Releases, the Named Plaintiffs and each Settlement Class Member expressly, knowingly, and voluntarily waive any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, and any statute, rule and legal doctrine similar, comparable, or equivalent to California Civil Code Section 1542, which provides that:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

The Named Plaintiffs agree, and upon Final Approval the Settlement Class Members shall be deemed to have agreed, that the provisions of California Civil Code Section 1542, or similar federal or state laws, rights, rules, or legal principles, to the extent they are found to be applicable, are hereby knowingly and voluntarily waived, relinquished, and released. The Named Plaintiffs and each Settlement Class Member recognize that, even if they may later

discover facts in addition to or different from those which they now know or believe to be true, they nevertheless agree that, upon entry of the final Judgment, they fully, finally, and forever settle and release any and all claims covered by these Releases. The Settling Parties, including all Settlement Class Members, acknowledge that the foregoing Releases were bargained for and are a material element of the Agreement.

9.5. This Agreement and the Releases herein do not affect the rights of Settlement Class Members who timely and properly submit a Request for Exclusion from the Settlement in accordance with the requirements in Section 10 of this Settlement Agreement.

9.6. The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, enforcement of the Releases contained in the Agreement. The Court expressly retains jurisdiction in order to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement.

9.7. Upon issuance of the final Judgment: (i) the Settlement Agreement shall be the exclusive remedy for any and all Settlement Class Members, except those who have properly requested exclusion (opted out) in accordance with the terms and provisions hereof; (ii) the Released Persons shall not be subject to liability or expense for any of the Released Claims to any Settlement Class Member(s); (iii) Settlement Class Members who have not opted out shall be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise) any action in any jurisdiction based on or relating to any of the Released Claims or the facts and circumstances relating thereto; and (iv) Settlement Class Members who have not opted out shall be permanently barred and precluded

from organizing Settlement Class Members, or soliciting the participation of Settlement Class Members, for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in any jurisdiction) based on or relating to any of the Released Claims or the facts and circumstances relating thereto.

9.8. Nothing in this Settlement Agreement and Releases shall preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed herein. The Releases in this Settlement Agreement are not intended to include the release of any rights or duties of the Settling Parties arising out of the Settlement Agreement, including the express warranties and covenants contained herein.

## **10. OPT-OUT RIGHTS**

10.1. A Settlement Class Member who wishes to opt out of the Settlement Class must do so in writing. In order to opt out, a Settlement Class Member must complete and send to the Settlement Administrator, at the address listed in the Class Notice and on the Settlement Website for this Settlement, a Request for Exclusion that is postmarked no later than the Opt Out Deadline, as specified in the Class Notice (or as the Court otherwise requires). The Request for Exclusion must: (a) identify the case name; (b) identify the name, address, and telephone number of the Settlement Class Member; (c) identify the date, if known, of the short sale and the address of the property subject to the short sale; (d) be personally signed by the Settlement Class Member requesting exclusion; and (e) contain a statement that indicates a desire to be excluded from the Settlement Class in the Litigation, such as “I hereby request that I be excluded from the proposed Settlement Class in *McClellan v. Chase Home Finance LLC, et al.*, Case No. SACV12-01331 JGB (JEMx).”

10.1.1. Any Settlement Class Member who does not opt out of the Settlement in the manner described herein shall be deemed to be part of the Settlement Class, and shall be bound by all subsequent proceedings, orders, and judgments.

10.1.2. A Settlement Class Member who desires to opt out must take timely affirmative written action pursuant to this Section (Section 10), even if the Settlement Class Member desiring to opt out of the Class (a) files or has filed a separate action against any of the Released Persons, or (b) is, or becomes, a putative class member in any other class action filed against any of the Released Persons.

10.2. Any Settlement Class Member who properly opts out of the Settlement Class shall not: (a) be bound by any orders or judgments relating to the Settlement; (b) be entitled to relief under, or be affected by, the Agreement; (c) gain any rights by virtue of the Agreement; or (d) be entitled to object to any aspect of the Settlement.

10.3. The Settlement Administrator shall provide Class Counsel and Defense Counsel with a list of all timely Requests for Exclusion within seven (7) business days after the Opt Out Deadline.

10.4. If the number of Settlement Class Members who properly and timely exercise their right to opt out of the Settlement Class exceeds five percent (5%) of the total number of Settlement Class Members, the Settling Parties stipulate and agree that Chase shall have the right to terminate this Agreement without penalty or sanction.

10.5 Except for those Settlement Class Members who timely and properly file a Request for Exclusion in accordance with Section 10, all other Settlement Class Members will be

deemed to be Settlement Class Members for all purposes under the Agreement, and upon the Final Settlement Date, will be bound by its terms.

## **11. OBJECTIONS**

11.1. Overview. Any potential Settlement Class Member who does not opt out of the Settlement may object to the Settlement. To object, the Settlement Class Member must comply with the procedures and deadlines in this Agreement.

11.2. Process. Any potential Settlement Class Member who wishes to object to the Settlement must do so in writing on or before the Objection Deadline, as specified in the Class Notice and Preliminary Approval Order. The written objection must be filed with the Clerk of Court, and mailed (with the requisite postmark) to Class Counsel and Defense Counsel (at the addresses identified in Section 18), no later than the Objection Deadline.

11.2.1. The requirements to assert a valid written objection shall be set forth in the Class Notice and on the Settlement Website, and, to be valid, the written objection must include: (a) the case name and number; (b) the name, address, and telephone number of the Settlement Class Member objecting and, if represented by counsel, of his/her counsel; (c) a description of the specific basis for each objection raised; (d) a statement of whether he/she intends to appear at the Final Approval Hearing, either with or without counsel; and (e) the address of the property the Settlement Class Member disposed of via short sale.

11.2.2. Any Settlement Class Member who fails to object to the Settlement in the manner described in the Class Notice and consistent with this Section shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the

Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means.

11.3. Appearance. Subject to approval of the Court, any Settlement Class Member who files and serves a written objection in accordance with Paragraph 11.2 and the Class Notice may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objecting Settlement Class Member: (a) files with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing by the Objection Deadline (“Notice Of Intention to Appear”); and (b) serves the Notice of Intention to Appear on all counsel designated in the Class Notice by the Objection Deadline.

11.3.1. The Notice of Intention to Appear must include the case name and number; the Settlement Class Member’s name, address, telephone number, and signature, and, if represented by counsel, their contact information; and copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing.

11.3.2. Any Settlement Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Agreement and Class Notice shall not be entitled to appear at the Final Approval Hearing and raise any objections.

## **12. SETTLEMENT APPROVAL**

12.1. By February 19, 2015, Named Plaintiffs shall file a Preliminary Approval Application and ask the Court for entry of the proposed Preliminary Approval Order (Exhibit B).



12.3. At least ten (10) days before the Final Approval Hearing, the Settlement Administrator shall provide counsel for the Settling Parties with an affidavit or declaration by a competent affiant or declarant, attesting that the Class Notice has been disseminated in accordance with the Preliminary Approval Order and identifying the number of Requests for Exclusion to the Settlement. At least five (5) days before the Final Approval Hearing, Named Plaintiffs shall file the affidavit or declaration with the Court prior to the Final Approval Hearing.

12.4. Named Plaintiffs shall move for and brief the issue of Final Approval of the Settlement in accordance with the Preliminary Approval Order or such other or further order of the Court. Chase shall support Final Approval of the Settlement consistent with the terms of this Agreement.

12.5. At the Final Approval Hearing, Named Plaintiffs shall move for entry of the proposed Judgment (Exhibit C) and present arguments in support thereof. Chase shall support entry of the proposed Judgment consistent with the terms of this Agreement.

12.6. Promptly after the Final Settlement Date, Settlement Class Members shall dismiss with prejudice all claims, actions, or proceedings that have been brought by or involve any Settlement Class Member in any other jurisdiction and that are released pursuant to this Settlement Agreement.

### **13. CERTIFICATION OF SETTLEMENT CLASS FOR SETTLEMENT PURPOSES**

13.1. After the Preliminary Approval Order is entered, Named Plaintiffs shall move for Final Approval of the Settlement and entry of final Judgment, and shall request that the preliminary certification of the Settlement Class for settlement purposes be made final. Chase

shall support Final Approval of the Settlement and entry of final Judgment (in the form of Exhibit C) for settlement purposes only, consistent with the terms of this Agreement.

13.2. If the Settlement is not granted Final Approval, or this Agreement is otherwise terminated or rendered null and void, the certification of the above-described Settlement Class shall be automatically vacated and shall not constitute evidence or a determination that the requirements for certification of a class for settlement or trial purposes in this or any other action can be or have been satisfied; in such circumstances, Chase reserves and shall have all rights to challenge certification of a Settlement Class or any other Class for trial or any other purpose in the Litigation, or in any other action, on all available grounds as if no Settlement Class had been certified.

**14. ATTORNEYS' FEES, EXPENSES, AND NAMED PLAINTIFFS' CASE CONTRIBUTION AWARD**

14.1. Any application for Attorneys' Fees and Expenses shall not exceed \$150,000.

14.2. Chase agrees not to oppose or otherwise object to an application for the award of Attorneys' Fees and Expenses in this Action in an amount not to exceed \$150,000. Provided any award of Attorneys' Fees and Expenses does not exceed \$150,000, Chase shall pay the Attorneys' Fees and Expenses identified by the Court in the final Judgment in the Litigation within thirty (30) days after the Final Settlement Date. If for any reason an award of Attorneys' Fees and Expenses exceeds \$150,000, within ten (10) business days of the order of such an award, Chase shall have the right, and may, within its sole discretion, terminate this Settlement and have this Settlement Agreement deemed null and void.

14.3. Within ten (10) business days after the Final Settlement Date, Chase shall pay the amount of Attorneys' Fees and Expenses awarded by the Court (not to exceed \$150,000) in a

trust account of Class Counsel's choosing. Class Counsel shall provide counsel for Chase with the identity of and details of that trust account and a completed W9 form within ten (10) days after the final Judgment.

14.4. In addition to the Claim Settlement Relief otherwise due to a Settlement Class Member, Chase agrees to pay Named Plaintiffs a total Case Contribution Award, if awarded by the Court, not to exceed the sum of \$3,000.00. Chase shall deliver to Named Plaintiffs' Counsel a check made payable to Named Plaintiffs within ten (10) business days after the Final Settlement Date.

14.4.1. If the Court awards Named Plaintiffs a Case Contribution Award, Named Plaintiffs shall provide to Chase a completed W9 form within ten (10) days after the final Judgment.

14.5. The procedure for and the grant or denial or allowance or disallowance by the Court of the Attorneys' Fees and Expenses and Case Contribution Awards are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. Any order or proceedings relating to the applications for Attorneys' Fees and Expenses and any Case Contribution Award, or any appeal from any such order or the reversal or modification of any such order, will not operate to terminate or cancel this Agreement, or affect or delay the finality of Judgment approving the Agreement and the Settlement, except as provided for in Paragraph 14.2.

**15. CONFIDENTIALITY; COMMUNICATIONS TO MEDIA AND PUBLIC**

15.1 The Settling Parties agree that the terms of this Settlement shall remain confidential and shall not be disclosed by any party until the Settlement Agreement is filed in connection with Named Plaintiffs' Preliminary Approval Application.

15.2 The Settling Parties agree further that both before and after Preliminary Approval of the Settlement, they shall not publish a press release or a release on the Internet concerning the Settlement without the prior written review and approval of all other Settling Parties, which approval shall not be unreasonably withheld or delayed.

15.3 The Settling Parties agree that both before and after Preliminary Approval, if any print or electronic media outlet contacts any party or its counsel seeking information or a statement regarding the Settlement, in the absence of a response agreed upon by all Settling Parties, no information will be provided in response to such inquiries except to the extent such information appears as part of the public record.

**16. TERMINATION AND EFFECT THEREOF**

16.1. This Agreement shall be terminable by any Settling Party if any of the conditions of Section 3, Paragraph 4.8, Paragraph 10.4, or Paragraph 14.2 are not fully satisfied, unless they are waived in writing signed by authorized representatives of the Settling Parties.

16.2. This Agreement shall also terminate at the discretion of any Settling Party if: (1) the Court, or any appellate court(s), rejects, modifies, or denies approval of any portion of this Agreement or the proposed Settlement that is material, including without limitation, the terms or relief, the findings or conclusions of the Court, the provisions relating to Class Notice, the definition of the Settlement Class, and/or the terms of the Releases; (2) the Court, or any

appellate court(s), does not enter or completely affirm, or alters or expands, any portion of the final Judgment, or any of the District Court's findings of fact or conclusions of law, that is material; or (3) if all of the conditions required to be met before the Final Settlement Date do not occur.

16.3. If this Agreement is terminated as provided herein, either automatically or by a Party, the Settlement shall be null and void from its inception and the Settling Parties will be restored to their respective positions in the Litigation as of the date of Preliminary Approval. In such event, the terms and provisions of this Agreement will have no further force and effect with respect to the Settling Parties and will not be used in the Litigation, or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of this Agreement will be treated as vacated, *nunc pro tunc*.

## **17. MISCELLANEOUS PROVISIONS**

17.1. The Settling Parties acknowledge that it is their intent to consummate this Agreement, and they agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of this Agreement.

17.2. The Settling Parties intend the Settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement compromises claims that are contested and will not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties agree that the consideration provided to the Settlement Class and the other terms of the Settlement were negotiated in good faith and at arm's

length by the Settling Parties, and reflect a Settlement that was reached voluntarily after consultation with competent legal counsel.

17.3. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement is, or may be deemed to be, or may be used as, an admission or evidence of the validity of any Released Claims, or of any wrongdoing or liability by Chase; or is, or may be deemed to be, or may be used as, an admission of, or evidence of, any fault, omission, wrongdoing, or liability of Chase in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. Chase may file this Agreement and/or the Judgment in any action that may be brought against it in order to support any defense or counterclaim, including, without limitation, those based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion, issue preclusion, or similar defense or counterclaim.

17.4. All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information will survive this Agreement.

17.5. All of the Exhibits to this Agreement are material and integral parts hereof and are fully incorporated herein by this reference.

17.6. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

17.7. This Agreement and the Exhibits attached hereto constitute the entire agreement among the Settling Parties, and no representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties,

and covenants covered and memorialized herein. Except as otherwise provided herein, the Settling Parties will bear their own respective costs.

17.8. Class Counsel, on behalf of the Settlement Class, are expressly authorized by Named Plaintiffs to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to this Agreement to effectuate its terms, and are expressly authorized to enter into any modifications or amendments to this Agreement on behalf of the Settlement Class that Class Counsel deem appropriate.

17.9. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument. A complete set of counterparts will be submitted to the Court.

17.10. This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

17.11. The Court will retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Settling Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

17.12. None of the Settling Parties, or their respective counsel, will be deemed the drafter of this Agreement or its Exhibits for purposes of construing the provisions thereof. The language in all parts of this Agreement and its Exhibits will be interpreted according to its fair meaning, and will not be interpreted for or against any Settling Party as the drafter thereof.

17.13. The Settling Parties stipulate to stay all proceedings in the Litigation until the approval of this Agreement has been finally determined, except the stay of proceedings shall not

prevent the filing of any motions, affidavits, and other matters necessary to obtain and preserve final judicial approval of this Agreement.

17.14. Except as agreed by the Parties in writing, within thirty (30) days after the Final Settlement Date, Class Counsel shall destroy all electronically stored information, testimony, or other information produced by Chase in the Litigation, including any information provided during settlement discussions, and shall so certify in writing.

17.15. The Settlement shall be governed by the laws of the State of California, except to the extent that the law of the United States governs any matters set forth herein, in which case such federal law shall govern.

17.16. The following principles of interpretation apply to the Agreement: (a) the plural of any defined term includes the singular, and the singular of any defined term includes the plural, as the case may be; (b) references to a person are also to the person's successor-in-interest; and (c) whenever the words "include," "includes," or "including" are used in the Agreement, they shall not be limiting, but rather shall be deemed to be followed by the words "without limitation."

17.17. The Settlement Agreement shall not be subject to collateral attack by any Settlement Class Member or any recipient of the notices of the Settlement Class after the Judgment is entered.

## **18. NOTICES**

18.1. All Notices (other than the Class Notice) required by the Agreement shall be made in writing and communicated by electronic mail and Federal Express to the following addresses:



All Notices to Plaintiffs or the Settlement Class shall be sent to Class Counsel, c/o:

Jon R Mower  
Dan J. Bulfer  
Atkinson, Andelson, Loya, Ruud, & Romo  
20 Pacifica Suite 400  
Irvine, CA 92618  
949-453-4260  
Fax: 949-453-4262  
Email: JMower@aalrr.com  
Email: DBulfer@aalrr.com

Bruce Alan Harbin  
Harbin & McCarron  
1801 Park Court Place Building G  
Santa Ana, CA 92701  
714-550-0941  
Fax: 714-550-0468  
Email: bharbin@hmlaw.com

*Counsel for Named Plaintiffs and Settlement Class*

All Notices to Defense Counsel shall be sent to Defense Counsel, c/o:

Ben Suter  
Cara L. Finan  
Keesal, Young & Logan  
450 Pacific Avenue  
San Francisco, CA 94133  
Telephone: 415.398.6000  
Facsimile: 415.981.0136  
Email: ben.suter@kyl.com  
Email: cara.finan@kyl.com

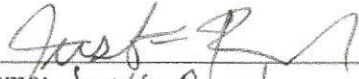
*Counsel for Chase*

18.2. The notice recipients and addresses designated above may be changed by written agreement of the Settling Parties.

18.3. Upon the request of any of the Settling Parties, the Settling Parties agree to promptly provide each other with copies of objections, Requests for Exclusion, or other similar documents received from Settlement Class Members in response to the Class Notice.

IN WITNESS WHEREOF, the Settling Parties have executed and caused this Settlement on the dates set forth below.

Dated: 2/12/15

By:   
Name: Justin Rand  
Title: SVP

*JPMorgan Chase Bank, N.A. (on its own and as successor by merger to Chase Home Finance, LLC and Chase Home Finance, Inc.)*

Dated: 2/15/15

By:   
Michael McClellan

*Plaintiff*

Dated: 2-15-15

By:   
Marta McClellan

*Plaintiff*

# **EXHIBIT A**

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA  
*McClellan v. Chase Home Finance LLC, et al.*  
Case No. SACV12-01331 JGB (JEMx)

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**YOU ARE ENTITLED TO A PAYMENT**

**A federal court has ordered that this notice be provided to you.  
This is not a solicitation or advertisement.**

You are not being sued. Your legal rights are affected whether you act or not.

- JPMorgan Chase Bank, N.A. (“Chase”) will reimburse California borrowers with a Chase home loan or home equity line of credit who participated in a short sale of property in California on or after July 15, 2011 and who allegedly were required to pay money above and beyond the proceeds of that short sale to obtain Chase’s written consent. The total reimbursement to all California borrowers will be up to \$305,282.19.
- Records indicate that you paid \$ \_\_\_\_\_ [Individualized Amount] above and beyond the proceeds of a short sale to Chase on or after July 15, 2011. The Settlement provides that Chase will reimburse you for such amount.
- Lawyers for the class of borrowers will ask the Court for \$150,000.00 to compensate them for fees and expenses incurred in investigating the facts, litigating the case, and negotiating the settlement. This amount will be paid separately by Chase and will not diminish your payment under the settlement.
- Chase disputes that it has done anything wrong, and this Settlement is not an admission of fault by Chase.
- **YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OF NOT.  
PLEASE READ THIS NOTICE CAREFULLY.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING</b>	You will receive a payment if the Court approves the Settlement.
<b>EXCLUDE YOURSELF</b>	Get no payment. This option preserves your ability to bring a separate lawsuit against Chase regarding the legal claims in this case.
<b>OBJECT</b>	Tell the Court in writing why you do not like the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and only after any appeals have been resolved.

**WHAT IS IN THIS NOTICE**

**BASIC INFORMATION**..... PAGE \_\_\_\_

1. WHY DID I GET THIS NOTICE?
2. WHAT IS THIS NOTICE?
3. WHAT DO THE TERMS USED IN THIS NOTICE MEAN?

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4. WHO ARE THE PARTIES TO THIS LAWSUIT?
5. WHAT IS THIS LAWSUIT ABOUT?
6. WHY IS THERE A SETTLEMENT?

**THE SETTLEMENT TERMS AND BENEFITS**..... PAGE \_\_\_\_

7. WHAT IS THE PROPOSED SETTLEMENT?

- 8. WHEN WOULD I RECEIVE MY SETTLEMENT PAYMENT?
- 9. CAN I CONTEST THE AMOUNT OF MY SETTLEMENT PAYMENT?
- 10. WHAT AM I GIVING UP TO BE PART OF THE SETTLEMENT?

**SETTLEMENT RIGHTS AND OPTIONS..... PAGE\_\_\_\_\_**

- 11. WHAT ARE MY RIGHTS AND OPTIONS REGARDING THE PROPOSED SETTLEMENT?
- 12. WHAT IF I DO NOTHING?
- 13. HOW DO I GET OUT OF THE SETTLEMENT?
- 14. HOW DO I OBJECT TO THE SETTLEMENT?

**THE LAWYERS REPRESENTING YOU ..... PAGE\_\_\_\_\_**

- 15. DO I HAVE A LAWYER IN THIS CASE?
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## **BASIC INFORMATION**

### **1. WHY DID I GET THIS NOTICE?**

You have received this Notice because records produced by JPMorgan Chase Bank, N.A., for itself and as successor by merger to Chase Home Finance LLC and Chase Home Finance Inc. (“Chase”), indicate that you are a Settlement Class Member. These records show that on or after July 15, 2011, you were a borrower on a home loan or home equity line of credit (owned or serviced by Chase) that was secured by a mortgage or deed of trust on property located in California; you entered into and completed a short sale of the property with Chase’s written consent; and you made a payment to Chase in some amount over and above the proceeds from the short sale.

The Court has directed that this Notice be sent to you because you have a right to know about the proposed Settlement of this class action lawsuit and about your options, before the Court decides whether to approve the Settlement. The Settlement will resolve the claims of all Settlement Class Members who do not exclude themselves from the Settlement. If you do not respond to this Notice within the timeframe indicated in this Notice, you will receive payment of the amount above. However, you will lose any right you have to bring claims against Chase and will be bound by the Release of claims set forth in the Settlement Agreement and described below. Payment of the amount identified above will not be made unless the Settlement is approved and any appeals have been resolved in favor of the Settlement.

### **2. WHAT IS THIS NOTICE?**

This Notice has been sent to all Settlement Class Members like you. It explains the lawsuit, the Settlement, what benefits are available to you, and your legal rights, including your right to object to the Settlement or to exclude yourself from the Settlement (sometimes referred as to “opting-out”).

The Court in charge of this case is the United States District Court for the Central District of California, and the case is known as *McClellan v. Chase Home Finance LLC, et al.*, Case No. SACV12-01331 JGB (JEMx). The Court has preliminarily approved this Settlement and has directed that this Notice be sent to you.

**3. WHAT DO THE TERMS USED IN THIS NOTICE MEAN?**

- a. “Lawsuit” and “Class Action” mean the lawsuit herein, generally known as *McClellan v. Chase Home Finance LLC, et al.*, Case No. SACV12-01331 JGB (JEMx)
- b. “Plaintiffs” and “Class Representatives” mean Michael and Marta McClellan, the named Plaintiffs in the Lawsuit.
- c. “Class Counsel” means the attorneys for the Settlement Class, which the Court preliminarily has designated to be the law firms of Atkinson, Andelson, Loya, Rudd & Romo, LLC and Harbin and McCarron.
- d. “Chase” or “Defendant” means JPMorgan Chase Bank, N.A., on its own and as successor by merger to Chase Home Finance LLC and Chase Home Finance Inc.
- e. “Release” means the Release of claims that are being given up to stay in the Settlement Class, as set forth in Section 9 of the Settlement Agreement.
- f. “Settlement Administrator” means the company that will administer the Class Action Settlement.
- g. “Settlement Class Member” means each member of the “Settlement Class.”
- h. “Settlement Class” means all individuals identified on the agreed upon Settlement Class List, which reflects each California resident who, on or after July 15, 2011:
  - was the borrower on a home loan or home equity line of credit (either owned or serviced by Chase) that was secured by a mortgage or deed of trust on property located within the State of California;
  - entered into and completed a short sale of the property with Chase’s consent; and
  - allegedly was required to make a payment in some amount over and above the proceeds received from a short sale to Chase, in order to obtain that written consent.

Excluded from the Settlement Class are any: (i) individuals who are or were during the Class Period officers or directors of the Defendants or any of their respective affiliates; (ii) any justice, judge, or magistrate judge of the United



States or any State, their spouses, and persons within the third degree of relationship to either of them, or the spouses of such persons; (iii) all borrowers whose home loan or home equity line of credit was owned by a government-sponsored enterprise at the time of the short sale; and (iv) all borrowers who file a timely and proper request to be excluded from the Settlement Class in accordance with Section 10 of the Settlement Agreement.

- i. “Class Period” means July 15, 2011 through \_\_\_\_\_ [DATE OF PRELIMINARY APPROVAL].
- j. “Settlement” means the terms and conditions of the proposed settlement of the Lawsuit set forth in the Settlement Agreement filed with the Court on \_\_\_\_\_ [DATE].
- k. “Seller Contribution” means the amount of money paid by a mortgagor or trustor over and above the proceeds from a short sale of property.

### THE CLAIMS IN THE LAWSUIT

#### **4. WHO ARE THE PARTIES TO THIS LAWSUIT?**

Michael and Marta McClellan are Plaintiffs in the Lawsuit and have been preliminarily designated by the Court as Class Representatives for settlement purposes only to maintain the Lawsuit on behalf of all Settlement Class Members. Chase is the Defendant.

#### **5. WHAT IS THIS LAWSUIT ABOUT?**

Two California borrowers (“Plaintiffs”) who participated in a short sale of property in California have brought a putative class action against Chase, alleging violations of a California law that took effect on July 15, 2011. That new law makes it unlawful for a “holder of a note” to “require the trustor, mortgagor, or maker of the note to pay any additional compensation, aside from the proceeds of the sale, in exchange for the written consent to the sale.” Cal. C.C.P. § 580e(b). The lawsuit alleges that Chase violated this law by requiring Plaintiffs to pay money above and beyond the proceeds of the short sale in exchange for Chase’s written consent to the sale. The lawsuit asserts various claims based upon this alleged violation on behalf of the Plaintiffs and all persons in the Settlement Class. The lawsuit seeks monetary damages, punitive damages, attorneys’ fees, and injunctive relief.

Chase expressly denies Plaintiff's allegations and all charges of wrongdoing and liability. There has been no Court decision on the merits of this case and no finding that Chase or any other party committed any wrongdoing. There has been no resolution of any of the factual or legal allegations made against Chase.

#### **6. WHY IS THERE A SETTLEMENT?**

Plaintiffs and Class Counsel believe that the claims against Chase have merit, but recognize that continued litigation will involve significant expense and time and that Plaintiffs might not be able to obtain class certification or prove some or all of their claims. In Class Counsel's judgment, were this case to proceed, it is uncertain whether Plaintiffs would succeed at the certification stage, whether Chase would be found to have violated the new law as alleged, and whether the amount of damages awarded, if any, would be more than the amount of the proposed Settlement. Thus, Plaintiffs and their attorneys engaged in arm's-length negotiations with Chase and its attorneys. The negotiations led to the proposed Settlement. Plaintiffs and their attorneys believe that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class.

Chase denies any wrongdoing or that it has violated any laws. However, Chase has agreed to settle the lawsuit in order to avoid the time and expense of continuing to defend the Lawsuit.

### **THE SETTLEMENT TERMS AND BENEFITS**

#### **7. WHAT IS THE PROPOSED SETTLEMENT?**

Without admitting that it did anything wrong and in exchange for the Release of claims described below and in the Settlement Agreement, Chase has agreed to pay up to the total amount of \$305,282.19 (the "Settlement Payments") to resolve claims by Settlement Class Members. Each Settlement Class Member who does not opt out will receive a Settlement Payment in the full amount of what the Settlement Class Member allegedly was required to pay to Chase above and beyond the proceeds of a short sale of property in California, in order for Chase to approve that short sale. If you do not opt out, you will receive a check in the amount of \_\_\_\_\_ [AMOUNT].

In addition, Chase has agreed that it will not oppose: (1) any request by Class Counsel for an award of attorneys' fees and litigation costs in the total amount of \$150,000.00; and (2) any request by the Named Plaintiffs for a Case Contribution Award in the total amount of \$3,000.00.

If awarded by the Court, Chase will pay these amounts separate and apart from any Settlement Payments to Settlement Class Members.

**8. WHEN WOULD I RECEIVE MY SETTLEMENT PAYMENT?**

The Settlement Administrator will mail Settlement Payments to all Class Members who have not excluded themselves from participation in the Settlement within thirty (30) days after the Settlement becomes final and effective.

**9. CAN I CONTEST THE AMOUNT OF MY SETTLEMENT PAYMENT?**

Yes, you may contest the amount of your Settlement Payment, but, to do so, you must submit written documentation to the Settlement Administrator, with copies mailed to Class Counsel and Chase Counsel, postmarked no later than \_\_\_\_\_ [30 DAYS FROM MAIL NOTICE DATE]. The address for the Settlement Administrator is: \_\_\_\_\_. The addresses for Class Counsel and Chase Counsel are identified below (in Answer #14).

If you provide such written documentation in a timely manner, Class Counsel shall notify you within 15 days of receipt of this documentation as to whether your Settlement Payment will change, so that you can make a determination as to whether to remain within, object to, or exclude yourself from the Settlement Class.

**10. WHAT AM I GIVING UP TO BE PART OF THE SETTLEMENT?**

If you are a Settlement Class Member and unless you exclude yourself, you are staying in the Settlement Class. That means you can't sue, continue to sue, or be part of any other lawsuit against Chase about the issues that were or could have been raised in *this* case or that are otherwise covered by the Release. It also means that all of the Court's Orders concerning the Settlement Class will apply to you and legally bind you, including the Release of claims described in detail in Section 9 of the Settlement Agreement. This Release provision describes the legal claims that you give up if this Settlement is approved and you do not exclude yourself. Please carefully read this Release provision and the Settlement Agreement.

## **SETTLEMENT RIGHTS AND OPTIONS**

### **11. WHAT ARE MY RIGHTS AND OPTIONS REGARDING THE PROPOSED SETTLEMENT?**

As a Settlement Class Member, you may do nothing, exclude yourself from the Settlement, or object to the Settlement. Each option is described below.

### **12. WHAT IF I DO NOTHING?**

*You are not required to do anything to get money from the Settlement.* The Settlement Administrator will mail individual Settlement Payments to all Class Members who have not excluded themselves from participation in the Settlement within thirty (30) days following the date the Settlement becomes final. The Settlement will become final after all appeals are exhausted or the time to take any appeals has expired. Class Counsel will represent you in any legal proceedings needed to secure final approval of the Settlement.

If you do not request to be excluded from the Lawsuit, and you do not object to the proposed Settlement in the manner provided below, you will be deemed to have approved the proposed Settlement and to have waived any objections, and you will be forever foreclosed from objecting to the fairness or adequacy of the Settlement, any payment of attorneys' fees and costs, any case contribution awards to the Class Representatives, or any other aspect of the Settlement. You also will be subject to the Release of claims described above (Answer #10) and in greater detail in Section 9 of the Settlement Agreement.

### **13. HOW DO I GET OUT OF THE SETTLEMENT?**

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a request for exclusion. Your request for exclusion must be signed, dated, completed, and sent by first class U.S. Mail to the Settlement Administrator at the address set forth above. The request for exclusion must set forth: (1) the case name; (2) your full legal name; (3) your current mailing address and telephone number; (4) the date, if known, when your short sale closed and the address of the property you disposed of via short sale; (5) your signature, and (6) the following statement (or something similar):

I hereby request to be excluded from the proposed settlement class in *McClellan v. Chase Home Finance LLC, et al.*, Case No. SACV12-01331 JGB (JEMx).

The request for exclusion must be sent to the Settlement Administrator and postmarked no later than \_\_\_\_\_ [60 DAYS AFTER MAIL NOTICE DATE].

If you submit a complete and timely request for exclusion, you will no longer be a Settlement Class Member, will be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. You will retain whatever rights or claims you may have, if any, against Chase or related persons or entities, and you will be free to pursue them on an individual basis, if you choose to do so.

**14. HOW DO I OBJECT TO THE SETTLEMENT?**

If you believe the Settlement is unfair or inadequate in any respect, you (or your attorney on your behalf) may object to the Settlement by filing a written objection with the Court and mailing a copy of your objection to Class Counsel, Defendants’ counsel, and the Settlement Administrator.

To be valid, your objection must be in writing, personally signed by you, and must include: (1) the case name and number; (2) your name, address, and telephone number; (3) a description of the specific basis for each objection raised; (4) a statement of whether you intend to appear at the Final Approval Hearing; and (5) the address of the property you disposed of via short sale.

Your objection must be filed with the Clerk of Court, with copies mailed to all of the parties identified below, postmarked no later than \_\_\_\_\_ [60 DAYS AFTER MAIL NOTICE DATE].

<b>CLERK OF THE COURT</b>	<b>CLASS COUNSEL</b>	<b>COUNSEL FOR CHASE</b>
Clerk of the United States District Court for the Central District of California 3470 Twelfth Street Riverside, CA 92501-3801	Jon R. Mower, Esq. Dan J. Bulfer, Esq. ATKINSON, ANDELSON, LOYA, RUUD & ROMO 20 Pacifica, Suite 400 Irvine, CA 92618	Ben Suter, Esq. Cara Finan, Esq. KEESAL, YOUNG, & LOGAN 450 Pacific Avenue San Francisco, CA 94133

**THE LAWYERS REPRESENTING YOU**

**15. DO I HAVE A LAWYER IN THIS CASE?**

The Court appointed the following lawyers to represent you and all other Settlement Class Members. Together, these lawyers are called Class Counsel. You will not be charged any money to pay for these lawyers.

Jon R. Mower, Esq.  
Dan J. Bulfer, Esq.  
ATKINSON, ANDELSON, LOYA, RUUD & ROMO  
20 Pacifica, Suite 400  
Irvine, CA 92618  
Telephone: (949) 453-4260  
Facsimile: (949) 453-4262

Bruce Alan Harbin, Esq.  
HARBIN AND MCCARRON  
1801 Park Court Place Building G  
Santa Ana, CA 92701  
Telephone: (714) 550-0941  
Facsimile: (714) 550-0468

**16. HOW WILL CLASS COUNSEL BE PAID?**

The attorneys for the Plaintiff and Settlement Class Members will be paid independently of any Settlement Payments to Settlement Class Members. The attorneys will ask for a total amount of \$150,000.00 for their fees and costs, but the actual amount of attorneys' fees and costs will be determined by the Court. Class Counsel also will ask for a case contribution award to be paid to the Named Plaintiffs, in a total amount up to \$3,000.00. The Court may award less than these amounts.

**THE FINAL APPROVAL HEARING**

**17. WHAT IS THE DIFFERENCE BETWEEN PRELIMINARY AND FINAL APPROVAL?**

On \_\_\_\_\_, the United States District Court for the Central District of California granted preliminary approval of the proposed Settlement of this Lawsuit. This means the Court has preliminarily reviewed the terms of the Settlement and has authorized the dissemination of notice to the Class. When it grants preliminary approval, the Court also sets a date for the Final Approval Hearing (sometimes called a Fairness Hearing).

At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will consider any valid and timely objections. The Court

will listen to people who have properly asked to speak at the hearing. After the Final Approval Hearing, the Court will decide whether to approve the Settlement. We do not know how long this decision will take. If the Settlement is not approved, the Lawsuit will continue.

**18. WHEN AND WHERE WILL THE FINAL APPROVAL HEARING BE HELD?**

The Court will hold a Final Approval Hearing regarding the fairness and adequacy of the proposed Settlement on \_\_\_\_\_, at \_\_\_\_\_ in Courtroom No. 1 of the United States District Court for the Central District of California, Eastern Division, located at 3470 Twelfth Street, Riverside, CA 92501-3801. At the Final Approval Hearing, the Court also will determine whether to award a case contribution award to the Named Plaintiffs and will resolve Class Counsel's request for attorneys' fees and costs. This Hearing may be continued to a later date without further notice.

**19. DO I HAVE THE RIGHT TO APPEAR AT THE FINAL APPROVAL HEARING?**

Any Class Member who has not requested exclusion (opted out) from the Settlement, or who objects to the proposed Settlement, may appear in person or through counsel at the Final Approval Hearing described above, and be heard as to why the Settlement should or should not be approved as fair, reasonable, and adequate.

To do so, you must file with the Clerk of the Court and serve on all counsel for the parties (at the addresses identified above in Answer #14), a notice of intention to appear at the Final Approval Hearing. The notice of intention to appear must include (1) the case name and number; (2) your name, address, telephone number, and signature, and, if represented by counsel, their contact information; and (3) copies of any papers, exhibits, or other evidence that you intend to present to the Court in connection with the Final Approval Hearing. The notice of intention to appear must be filed with the Clerk of Court and served on all counsel no later than \_\_\_\_\_ [60 DAYS AFTER MAIL NOTICE DATE].

If you do not file a notice of intention to appear in accordance with the deadlines and other specifications set forth in the Settlement Agreement and this Notice, you will not be entitled to appear at the Final Approval Hearing to raise any objections.

**CHANGE OF ADDRESS**

It is your responsibility to keep the Settlement Administrator apprised of your correct address at all times until receipt of your Settlement Payment. Please sign and mail or fax any change of address along with your telephone number, former address, and new address to:

*McClellan v. Chase Home Finance* Settlement Administrator  
c/o [SA Name]  
[SA Address]  
[SA Telephone]  
[SA Web Address]

**ADDITIONAL INFORMATION**

The foregoing is only a summary of the Lawsuit and the proposed Settlement and does not purport to be comprehensive. More details are in the Complaint and Settlement Agreement, which, along with other information, are available through the Settlement Website at [www.McClellanSettlement Info.com](http://www.McClellanSettlementInfo.com). Please read the Settlement Agreement carefully.

In addition, the Settlement Agreement, and other papers filed in the Lawsuit may be inspected during regular business hours in the Clerk's Office of the United States District Court for the Central District of California – Eastern Division (Riverside), located at Clerk of the United States District Court for the Central District of California, 3470 Twelfth Street, Riverside, CA 92501-3801, from 10:00 a.m. to 4:00 p.m., Monday through Friday. You may also log on to PACER at <https://ecf.cacd.uscourts.gov/cgi-bin/login.pl>, using the case name and number listed on the first page of this Notice to examine the pleadings in this Lawsuit for a nominal fee.

If you need more information or have any questions, you may call Class Counsel at the telephone number above (answer #15). Please refer to the *McClellan v. Chase Home Finance* Settlement.

**DO NOT CONTACT THE COURT OR CHASE FOR INFORMATION  
ABOUT THIS PROPOSED SETTLEMENT**



# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MICHAEL McCLELLAN and MARTA	:	
McCLELLAN, on behalf of themselves	:	Case No. 8:12-cv-01331-JGB (JEMx)
and others similarly situated,	:	
	:	
Plaintiffs	:	PRELIMINARY APPROVAL
	:	ORDER
v.	:	
	:	
CHASE HOME FINANCE LLC, CHASE	:	
HOME FINANCE, INC., JP MORGAN	:	
CHASE BANK, N.A., PNC BANK, N.A.,	:	Honorable Jesus G. Bernal
and DOES1-10, INCLUSIVE	:	Honorable John E. McDermott
	:	
Defendants.	:	

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CERTIFYING CLASS FOR SETTLEMENT PURPOSES, DIRECTING THE ISSUANCE OF CLASS NOTICE, AND SCHEDULING A FINAL APPROVAL HEARING**

Upon review and consideration of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement, including the parties’ Stipulation and Settlement Agreement (the “Settlement Agreement”) and all exhibits thereto, and having been fully advised in the premises, it is HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. **Settlement.** Plaintiffs Michael and Marta McClellan and JPMorgan Chase Bank, N.A. (as successor by merger to Chase Home Finance, LLC and Chase Home Finance, Inc.) (“Chase”) (collectively, the “Settling Parties”), have negotiated a potential settlement of this action (the “Action” or the “Litigation”) to avoid the expense, uncertainties, and burden of protracted litigation, and to resolve any and all claims being released by the Settlement Agreement, including all claims which have been or could be asserted by Plaintiff and/or other members of the Settlement Class in the Action against Chase, and all of its past and

present divisions, parents, subsidiaries, predecessors, investors, parent companies, acquired companies, agents, and affiliated companies.

2. **Review.** The Court has carefully reviewed the Settlement Agreement, as well as the files, records, and proceedings to date in this matter. The terms and conditions in the Settlement Agreement are hereby incorporated as though fully set forth in this Order, and, unless otherwise indicated, capitalized terms in this Order shall have the meanings attributed to them in the Settlement Agreement.

3. **Preliminary Approval.** The Settlement Agreement entered into by and among Plaintiffs and Chase has been negotiated at arm's length and is approved on a preliminary basis as fair, reasonable, and adequate.

4. **Settlement Class Relief.** The proposed Settlement Class Relief to the Settlement Class Members, as identified in Section 4 of the Settlement Agreement, is approved on a preliminary basis as fair, reasonable, and adequate. The Settlement Class shall consist of all individuals identified on the agreed upon Settlement Class List, which reflects each California resident who, on or after July 15, 2011: (a) was a borrower on a home loan or home equity line of credit (either owned or serviced by Chase) that was secured by a mortgage or deed of trust on property located within the State of California; (b) entered into and completed a short sale of the property with Chase's written consent; and (c) allegedly was required to make a payment to Chase in some amount over and above the proceeds from the short sale, in order to obtain written consent for the short sale. Excluded from the Settlement Class are any: (i) individuals who are or were during the Class Period officers or directors of the Defendants or

any of their respective affiliates; (ii) any justice, judge, or magistrate judge of the United States or any State, their spouses, and persons within the third degree of relationship to either of them, or the spouses of such persons; (iii) all borrowers whose home loan or home equity line of credit was owned by a government-sponsored enterprise at the time of the short sale; and (iv) all borrowers who file a timely and proper request to be excluded from the Settlement Class in accordance with Section 10 of the Settlement Agreement.

5. **Preliminary Certification of Settlement Class.** The Court makes the following determinations as to certification of the Settlement Class for settlement purposes only:

(a) The Court preliminarily certifies the Settlement Class for purposes of settlement only, under Fed. R. Civ. P. 23(a) and (b)(3).

(b) The Settlement Class is so numerous that joinder of all members is impracticable;

(c) There are questions of law or fact common to the members of the Settlement Class;

(d) The claims of Plaintiffs are typical of the claims of the other members of the Settlement Class;

(e) Plaintiffs are capable of fairly and adequately protecting the interests of the members of the Settlement Class, in connection with the Settlement Agreement;

(f) Common questions of law and fact predominate over questions affecting only individual members of the Settlement Class;

(g) The Settlement Class is ascertainable;

(h) Resolution of the claims in this Litigation by way of Settlement is superior to other available methods for the fair and efficient resolution of the claims of the Settlement Class.

6. **Designation of Class Representatives.** Plaintiffs Michael and Marta McClellan are designated as representatives of the Settlement Class for the sole purpose of seeking a settlement of the Litigation.

7. **Designation of Class Counsel.** The law firms of Atkinson Andelson Loya Ruud and Romo and Harbin & McCarron are hereby designated as Class Counsel for the Settlement Class.

8. **Final Approval Hearing.** A hearing regarding final approval of the Settlement (“Final Approval Hearing”) will be held at :00 \_\_\_\_m. on \_\_\_\_\_ [no earlier than 120 days after preliminary approval], 2015 in \_\_\_\_\_ before the Honorable \_\_\_\_\_, to determine, among other things: (i) whether the Settlement of the Litigation should be approved as fair, reasonable, and adequate; (ii) whether the Litigation should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (iii) whether Settlement Class Members should be bound by the Release set forth in the Settlement Agreement; (iv) whether Settlement Class Members should be subject to a permanent injunction which, among other things, bars Settlement Class Members who have not opted out, from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), organizing, or soliciting the participation of other Settlement Class Members to pursue any action in any jurisdiction based on or relating to any of the Released Claims (as defined in the

Settlement Agreement) or the facts and circumstances relating thereto; and (v) whether the application of Class Counsel for an award of Attorneys' Fees and Expenses, and for a Case Contribution Award to Plaintiffs, should be approved.

9. **Class Notice.**

(a) The Court approves the Class Notice in the Settlement Agreement, including the Mail Notice attached as Exhibit A to the Settlement Agreement and the manner of providing Mail Notice to Settlement Class Members described in Section 6 of the Settlement Agreement. The Court finds that this is the best practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to apprise the Settlement Class Members of the pendency of this Action, the terms of the Settlement Agreement, and their right to object to the Settlement Agreement or exclude themselves from the Settlement Class. The Court further finds that Mail Notice and the other forms of Class Notice in the Settlement Agreement are reasonable, constitute due, adequate, and sufficient notice to all persons entitled to receive notice, and meet the requirements of due process.

(b) The Mail Notice shall be mailed within thirty (30) days after the entry of this Order and not less than ninety (90) days before the date set by the Court for a Final Approval Hearing regarding the Settlement.

(c) No later than the posting of the Mail Notice, the Settlement Administrator shall establish an Internet site (the "Settlement Website"), which shall contain copies of the Complaint, the Settlement Agreement and Exhibits, the Mail Notice, and other documents about the Lawsuit. The Settlement Website shall have a Uniform Resource Locator which identifies

the Settlement Website as McClellanSettlementInfo.com. The Settlement Website shall remain open and accessible through the expiration period of all issued and re-issued Settlement checks. The Settlement Website also shall prominently display contact information for Class Counsel and shall direct all questions about the Class Settlement to Class Counsel.

(d) No later than 5 days prior to the Final Approval Hearing, Class Counsel shall obtain from the Settlement Administrator, and shall file with the Court, a proof of mailing of the Mail Notice and of establishing of the Settlement Website.

10. **Administrators.** The Court authorizes and directs Chase to retain one or more Administrators to implement the terms of the Settlement Agreement, and authorizes and directs such Administrators to (i) mail the Mail Notice, (ii) establish the Settlement Website, (iii) distribute Class Settlement Relief, and (iv) carry out such other responsibilities as are provided for in the Settlement Agreement or may be agreed to by the Parties in the Action.

11. **Exclusion from the Settlement Class.** Any Settlement Class Member who wishes to be excluded from the Class must send a written Request for Exclusion to the Settlement Administrator, by first-class mail, postage prepaid, to the address provided in the Mail Notice and Settlement Website. Any such Request for Exclusion must be postmarked no later than \_\_\_\_\_, which is ninety (90) days after the entry of this Order.

(a) To be valid, the Request for Exclusion must: (a) identify the case name; (b) identify the name, address, and telephone number of the Settlement Class Member; (c) identify the date, if known, of the short sale and the address of the property subject to the short sale; (d) be personally signed by the Settlement Class Member

requesting exclusion; and (e) contain a statement that indicates a desire to be excluded from the Settlement Class in the Litigation, such as “I hereby request that I be excluded from the proposed Settlement Class in *McClellan v. Chase Home Finance LLC, et al.*, Case No. SACV12-01331 JGB (JEMx).”

(b) A Settlement Class Member who desires to opt out must take timely affirmative written action pursuant to this Order and the Settlement Agreement, even if the Settlement Class Member desiring to opt out of the Class (a) files or has filed a separate action against any of the Released Persons (as defined in the Settlement Agreement), or (b) is, or becomes, a putative class member in any other class action filed against any of the Released Persons.

(c) Except for those Settlement Class Members who timely and properly file a request for exclusion, all other Settlement Class Members will be deemed to be Settlement Class Members for all purposes under the Agreement, and upon the Final Settlement Date (as defined in the Settlement Agreement), will be bound by its terms, including, but not limited to, the Releases in Section 9 of the Settlement Agreement.

(d) If the number of Settlement Class Members who properly and timely exercise their right to opt out of the Settlement Class exceeds 5 percent (5%) of the total number of Settlement Class Members, Chase shall have the right to terminate this Agreement without penalty or sanction.



(e) If the proposed Settlement is approved, any Settlement Class Member who has not submitted a timely, written Request for Exclusion from the Class shall be bound by all subsequent proceedings, orders, and judgments in this Action, even if he or she has pending, or subsequently initiates, litigation against Chase relating to any of the Released Claims.

12. **Objections and Appearances.** Any Settlement Class Member who has not filed a timely written Request for Exclusion and who complies with the requirements of this Paragraph may object to any aspect of the proposed settlement either on his or her own or through an attorney hired at his or her expense. Any Settlement Class Member who wishes to object to the Settlement Agreement must do so in writing and must file with the Clerk of Court and serve on Class Counsel and Defendants' Counsel, at the addresses listed below, a written statement of objection in accordance with the requirements set forth below and in the Settlement Agreement. The written statement of objection must be postmarked no later than \_\_\_\_\_, which is ninety (90) days after the entry of this Order.

**For Plaintiff And Settlement Class**

Jon R Mower, Esq.  
Dan J. Bulfer, Esq.  
Atkinson Andelson Loya Ruud and Romo, LLP  
20 Pacifica Suite 400  
Irvine, CA 92618  
Telephone: 949-453-4260  
Fax: 949-453-4262  
Email: [JMower@aalrr.com](mailto:JMower@aalrr.com)  
Email: [DBulfer@aalrr.com](mailto:DBulfer@aalrr.com)

Bruce Alan Harbin

Harbin and McCarron  
1801 Park Court Place Building G  
Santa Ana, CA 92701  
Telephone: 714-550-0941  
Fax: 949-453-4262  
Email: [bharbin@hmlaw.com](mailto:bharbin@hmlaw.com).

**For Chase**

Ben Suter, Esq.  
Cara L. Finan, Esq.  
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Email: [ben.suter@kyl.com](mailto:ben.suter@kyl.com)  
Email: [cara.finan@kyl.com](mailto:cara.finan@kyl.com)

(a) The requirements to assert a valid written objection shall be set forth in the Class Notice and on the Settlement Website, and shall include: (a) the case name and number; (b) the name, address, telephone number of the person objecting and, if represented by counsel, of his/her counsel; (c) a description of the specific basis for each objection raised; (d) a statement of whether he/she intends to appear at the Final Approval Hearing, either with or without counsel; and (e) the address of the property the Settlement Class Member disposed of via short sale.

(b) Any Settlement Class Member who fails to object to the Settlement in the manner described in the Settlement, the Class Notice, and this Order shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the

Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means;

(c) Any Settlement Class Member who submits a timely written objection may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the proposed Settlement Agreement should not be approved as fair, adequate, and reasonable, provided that the objecting Settlement Class Member: (a) files with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing (“Notice Of Intention to Appear”), which must include the case name and number and the Settlement Class Member’s name, address, telephone number, and signature, by the Objection Deadline (as identified in Paragraph 9 above); and (b) serves the Notice Of Intention To Appear on all counsel designated in the Class Notice by the Objection Deadline. The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing. Any attorney who intends to represent an objecting Settlement Class Member at the Final Approval Hearing must do so at the Settlement Class Member’s expense and must file a notice of appearance at least two weeks before the Final Approval Hearing. Any Settlement Class Member who does not file a Notice of Intention To Appear in accordance with the deadlines and other specifications set forth in the Settlement, the Class Notice, and this Order will not be entitled to appear at the Final Approval Hearing to raise any objections.

13. **Releases.** If the Settlement is finally approved, all Settlement Class Members who have not filed a timely and proper Request for Exclusion shall release the Released Persons

from all Released Claims, as described in Section 9 of the Settlement Agreement, including, *inter alia*, all claims, charges, or demands that were or could have been sought or alleged in the Litigation or that relate, concern, arise from, or pertain in any way to any short sale of any property in California.

14. **Attorneys' Fees and Expenses, and Case Contribution Awards.** Defendants agree not to oppose an application for the award of Attorneys' Fees and Expenses in this Action not to exceed a total of \$150,000. Defendants also agree not to oppose the application for a total Case Contribution Award of \$3,000 for Plaintiffs Michael and Martin McClellan for their work and assistance in this Action.

15. **Preliminary Injunction.** All Settlement Class Members who do not timely exclude themselves from the Settlement Class are hereby preliminarily enjoined from directly or indirectly (i) filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise), any lawsuit in any jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Action and/or the Released Claims (as that term is defined in the Settlement Agreement); or (ii) organizing any Settlement Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on or relating to any of the Released Claims or the facts and circumstances relating thereto.

16. **Service of Papers.** Chase's Counsel and Class Counsel shall serve on each other and on all other parties who have filed notices of appearance, at or before the Final

Approval Hearing, any further documents in support of the proposed Settlement, including responses to any papers filed by Settlement Class Members. Chase's Counsel and Class Counsel shall promptly furnish to each other any and all objections or written requests for exclusion that may come into their possession and shall file such objections or requests for exclusion with the Court on or before the date of the Final Approval Hearing.

17. **Termination of Settlement.** This Order shall become null and void, and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if (i) the proposed Settlement is not finally approved by the Court, or does not become Final (as defined in the Settlement Agreement), pursuant to the terms of the Settlement Agreement; or (ii) the Settlement Agreement is terminated or does not become Final, as required by the terms of the Settlement Agreement, for any other reason. In such event, and except as provided therein, the proposed Settlement and Settlement Agreement shall become null and void and be of no further force and effect; the preliminary certification of the Settlement Class for settlement purposes shall be automatically vacated; neither the Settlement Agreement nor the Court's Orders, including this Order, shall be used or referred to for any purpose whatsoever; and the Parties shall retain, without prejudice, any and all objections, arguments, and defenses with respect to class certification, including the right to argue that no class should be certified for any purpose.

18. **Use of Order Following Termination of Settlement.** This Order shall be of no force and effect if the Settlement does not become final and shall not be construed or used

as an admission, concession, or declaration by or against Chase of any fault, wrongdoing, breach, or liability, or by or against Plaintiffs or the Settlement Class Members that their claims lack merit or that the relief requested in the Class Complaint in this Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or arguments it may have.

19. **Necessary Steps.** The Court authorizes the Parties to take all necessary and appropriate steps to implement the Settlement Agreement.

DONE and ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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UNITED STATES DISTRICT JUDGE  
Honorable Jesus G. Bernal

# **EXHIBIT C**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MICHAEL McCLELLAN and MARTA	:	
McCLELLAN, on behalf of themselves	:	Case No. 8:12-cv-01331-JGB (JEMx)
and others similarly situated,	:	
	:	
Plaintiffs	:	FINAL JUDGMENT AND ORDER
	:	
v.	:	
	:	
CHASE HOME FINANCE LLC, CHASE	:	
HOME FINANCE, INC., JP MORGAN	:	
CHASE BANK, N.A., PNC BANK, N.A.,	:	Honorable Jesus G. Bernal
and DOES1-10, INCLUSIVE	:	Honorable John E. McDermott
	:	
Defendants.	:	
	:	

**[PROPOSED] ORDER GRANTING FINAL APPROVAL TO CLASS ACTION SETTLEMENT AND FINAL JUDGMENT**

On \_\_\_\_\_, 201\_\_, this Court granted preliminary approval to the proposed class action settlement set forth in the Stipulation and Settlement Agreement (the “Settlement Agreement”) between Plaintiffs Michael and Marta McClellan (“Plaintiffs” or “Named Plaintiffs”), on behalf of themselves and all members of the Settlement Class,<sup>1</sup> and Defendants JPMorgan Chase Bank, N.A. (on behalf of itself and as successor by merger to Chase Home Finance, LLC and Chase Home Finance, Inc.) (“Chase”) (collectively, the “Parties”). The Court also provisionally certified the Settlement Class for settlement purposes, approved the procedure for giving Class Notice to the members of the Settlement Class, and set a final approval hearing to take place on \_\_\_\_\_. The Court finds that the Class Notice substantially in the form approved by the Court in its preliminary approval order was given in the manner

<sup>1</sup> Unless otherwise defined, capitalized terms in this Order have the definitions found in the Settlement Agreement.



ordered by the Court, constitutes the best practicable notice, and was fair, reasonable, and adequate.

On \_\_\_\_\_, the Court held a duly noticed final approval hearing to consider: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate; (2) whether a judgment should be entered dismissing the Named Plaintiffs' Complaint on the merits and with prejudice in favor of Chase and against all persons or entities who are Settlement Class Members herein who have not requested exclusion from the Settlement Class; and (3) whether and in what amount to award counsel for the Settlement Class as Attorneys' Fees and Expenses and whether and in what amount to award a Case Contribution Award to the Named Plaintiffs.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Court has personal jurisdiction over the parties and the Settlement Class Members, venue is proper, and the Court has subject matter jurisdiction to approve the Settlement Agreement, including all exhibits thereto, and to enter this Final Order and Judgment. Without in any way affecting the finality of this Final Order and Judgment, this Court hereby retains jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and of this Final Order and Judgment, and for any other necessary purpose.

2. The Settlement Agreement was negotiated at arm's length by experienced counsel who were fully informed of the facts and circumstances of this litigation (the "Litigation" or the "Action") and of the strengths and weaknesses of their respective positions. The Settlement Agreement was reached after the Parties had engaged in extensive settlement discussions over more than one year and after the exchange and production of substantial information, including

information about the size and scope of the Settlement Class. Counsel for the Parties were therefore well positioned to evaluate the benefits of the Settlement Agreement, taking into account the expense, risk, and uncertainty of protracted litigation with respect to numerous difficult questions of fact and law.

3. The Court finds that the prerequisites for a class action under Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b) have been satisfied for settlement purposes for each Settlement Class Member in that: (a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the Named Plaintiffs are typical of the claims of the Settlement Class they seek to represent; (d) Named Plaintiffs have and will continue to fairly and adequately represent the interests of the Settlement Class for purposes of entering into the Settlement Agreement; (e) the questions of law and fact common to the Settlement Class Members predominate over any questions affecting any individual Settlement Class Member; (f) the Settlement Class is ascertainable; and (g) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy.

4. Pursuant to Fed. R. Civ. P. 23, this Court hereby finally certifies the Settlement Class, as identified in the Settlement Agreement, which shall consist of all individuals identified on the Parties' agreed upon Settlement Class List, which reflects each California resident who, on or after July 15, 2011: (a) was a borrower on a home loan or home equity line of credit (either owned or serviced by Chase) that was secured by a mortgage or deed of trust on property located within the State of California; (b) entered into and completed a short sale of the property with Chase's written consent; and (c) allegedly was required to make a payment to Chase in some amount over and above the proceeds from the short sale, in order to obtain written

consent for the short sale. Excluded from the Settlement Class are any: (i) individuals who are or were during the Class Period officers or directors of the Defendants or any of their respective affiliates; (ii) any justice, judge, or magistrate judge of the United States or any State, their spouses, and persons within the third degree of relationship to either of them, or the spouses of such persons; (iii) all borrowers whose home loan or home equity line of credit was owned by a government-sponsored enterprise at the time of the short sale; and (iv) all borrowers who file a timely and proper request to be excluded from the Settlement Class in accordance with Section 10 of the Settlement Agreement.

5. The Court finally appoints the law firms of Atkinson, Andelson, Loya, Ruud, and Romo and Harbin & McCarron as Class Counsel for the Settlement Class.

6. The Court finally designates Named Plaintiffs Michael and Marta McClellan as the Class Representatives.

7. The Court makes the following findings on notice to the Settlement Class:

(a) The Court finds that the distribution of the Mail Notice and the creation of the Settlement Website, all as provided for in the Settlement Agreement, (i) constituted the best practicable notice under the circumstances to Settlement Class Members, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of, among other things, the pendency of the Action, the nature and terms of the proposed Settlement, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

(b) The Court finds that the Class Notice and methodology set forth in the Settlement Agreement, the Preliminary Approval Order, and this Final Order and Judgment (i) constitute the most effective and practicable notice of the Final Order and Judgment, the relief available to Settlement Class Members pursuant to the Final Order and Judgment, and applicable time periods; (ii) constitute due, adequate, and sufficient notice for all other purposes to all Settlement Class Members; and (iii) comply fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable laws.

8. The Settlement Agreement is finally approved as fair, reasonable and adequate pursuant to Fed. R. Civ. P. 23(e). The terms and provisions of the Settlement Agreement, including all exhibits thereto, have been entered into in good faith and are hereby fully and finally approved as fair, reasonable, and adequate as to, and in the best interests of, each of the Parties and the Settlement Class Members.

9. The Parties are hereby directed to implement and consummate the Settlement Agreement according to its terms and provisions.

10. Pursuant to Fed. R. Civ. P. 23(h), the Court hereby awards Class Counsel Attorneys' Fees and Expenses in the amount of \$\_\_\_\_\_ payable pursuant to the terms of the Settlement Agreement. The Court also awards a case contribution award in the amount of \$\_\_\_\_\_ to Michael and Marta McClellan payable pursuant to the terms of the Settlement Agreement.

11. The terms of the Settlement Agreement and of this Final Order and Judgment, including all exhibits thereto, shall be forever binding on, and shall have *res judicata* and preclusive effect in, all pending and future lawsuits maintained by the Plaintiffs and all other

Settlement Class Members, as well as their heirs, executors and administrators, successors, and assigns.

12. The Releases, which are set forth in Section 9 of the Settlement Agreement and which are also set forth below, are expressly incorporated herein in all respects and are effective as of the date of this Final Order and Judgment; and the Released Persons (as that term is defined below and in the Settlement Agreement) are forever released, relinquished, and discharged by the Releasing Persons (as that term is defined below and in the Settlement Agreement) from all Released Claims (as that term is defined below and in the Settlement Agreement).

(a) Release And Waiver Definitions

(i) “Chase” means JPMorgan Chase Bank, N.A. (on behalf of itself and as successor by merger to Chase Home Finance, LLC and Chase Home Finance, Inc.), and all past and present divisions, predecessors, subsidiaries, parents, acquired companies, and affiliated companies;

(ii) “Release” or “Releases” means the releases of all Released Claims by the Releasing Persons against the Released Persons;

(iii) “Released Claims” means all claims, actions, causes of action, suites, debts, sums of money, payments, obligations, reckonings, promises, damages, penalties, attorney’s fees and costs, liens, judgments, demands, and any other forms of liability released pursuant to this Final Order and Judgment and Section 10 of the Settlement Agreement;

(iv) “Released Persons” means: (a) Chase and each of its respective past or present divisions, parents, agents, subsidiaries, predecessors, investors, parent companies, acquired companies, and affiliated companies (which shall include any person or entity which

controls, is controlled by, or is under common control with any such party), including, but not limited to, Chase Home Finance, LLC, Chase Home Finance, Inc., any direct or indirect subsidiary of Chase, and each of their respective past or present divisions, parents, subsidiaries, predecessors, investors, parent companies, acquired companies, and affiliated companies, and all of the officers, directors, employees, agents, brokers, distributors, representatives, and attorneys of all such entities; (b) any other parties who acted on behalf of Chase, or any of its respective past or present divisions, parents, subsidiaries, predecessors, investors, parent companies, acquired companies, and affiliated companies (which shall include any person or entity which controls, is controlled by, or is under common control with any such party), in any short sale of property in California; and (c) the owner or holder of the mortgage loan at the time of each Settlement Class Member's short sale.

(v) "Releasing Persons" means Named Plaintiffs, all Settlement Class Members who do not properly and timely opt out of the Settlement, and their respective family members, heirs, administrators, successors, and assigns.

(vi) "Settling Parties" means, collectively, Defendants, Named Plaintiffs, all Settlement Class Members, and all Releasing Persons.

(b) Released Claims of Settlement Class. Upon the Final Settlement Date, each member of the Settlement Class, other than the Named Plaintiffs, shall, by operation of the final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged the Released Persons from any and all claims, actions, causes of action, suits, debts, sums of money, payments, obligations, promises, damages, penalties, attorney's fees and costs, liens, judgments, and demands of any kind whatsoever that each member of the Settlement Class may have on or before the Final Settlement Date or may have

had in the past, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis, whether past or present, mature or not yet mature, known or unknown, suspected or unsuspected, whether based on federal, state, or local law, statute, ordinance, regulations, contract, common law, or any other source, that were or could have been sought or alleged in the Litigation or that relate, concern, arise from, or pertain in any way to any short sale of any property in California.

(i) The Release in Paragraph 12(b) shall include, but not be limited to, all claims related to any payments made in connection with any short sale of any property in California; any correspondence from Chase regarding any short sale of any property in California; any breaches of any contracts regarding any short sales of any property in California; any representations or omissions by Chase to any Settlement Class Member in connection with any short sale of any property in California, including, but not limited to, any representations or omissions about the need or obligation for Settlement Class Members to pay additional compensation beyond the proceeds of the short sale; any alleged violations of § 580e of the California Code of Civil Procedure or any claims based upon any such alleged violations; and any alleged fraud, deceit, or deceptive, unfair, unlawful, or otherwise improper conduct in connection with any short sale of any property in California.

(ii) Nothing in Paragraph 12(b) shall be deemed a release of any Settlement Class Member's respective rights and obligations under the Agreement.

(c) Released Claims of Named Plaintiffs. Upon the Final Settlement Date, Named Plaintiffs, on behalf of themselves, their family members, heirs, guardians, assigns, executors, administrators, predecessors, and successors, hereby release and discharge the

Released Persons from any and all claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, penalties, attorney's fees and costs, liens, judgments, and demands of any kind whatsoever that the Named Plaintiffs may have on or before the Final Settlement Date or may have had in the past, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis, whether past or present, mature or not yet mature, known or unknown, suspected or unsuspected, whether based on federal, state, or local law, statute, ordinance, regulations, contract, common law, or any other source. In agreeing to this Release, Named Plaintiffs explicitly acknowledge that unknown losses or claims could possibly exist and that any present losses may have been underestimated in amount or severity.

(i) The Release in Paragraph 12(c) shall include, but not be limited to, all claims related to any payments made in connection with any short sale of any property in California; any correspondence from Chase regarding any short sale of any property in California; any breaches of any contracts regarding any short sales of any property in California; any representations or omissions by Chase to any Settlement Class Member in connection with any short sale of any property in California, including, but not limited to, any representations or omissions about the need or obligation for Settlement Class Members to pay additional compensation beyond the proceeds of the short sale; any alleged violations of § 580e of the California Code of Civil Procedure or any claims based upon any such alleged violations; and any alleged fraud, deceit, or deceptive, unfair, unlawful, or otherwise improper conduct in connection with any short sale of any property in California.

(ii) Nothing in Paragraph 12(c) shall be deemed a release of Named Plaintiffs' respective rights and obligations under this Agreement.



(d) Without in any way limiting their scope, these Releases cover by example and without limitation, any and all claims for monetary or punitive damages; any and all claims for attorneys' fees, costs, expert fees, or consultant fees, interest, or litigation fees; and any and all claims for any other fees, costs, and/or disbursements incurred by Class Counsel, the Named Plaintiffs, or any Settlement Class Members in connection with or related in any manner to the Litigation, the settlement of the Litigation, the administration of such Settlement, and/or the Released Claims, except to the extent otherwise specified in the Settlement Agreement.

(e) In connection with the foregoing Releases, the Named Plaintiffs and each Settlement Class Member expressly, knowingly, and voluntarily waive any and all provisions, rights, benefits conferred by Section 1542 of the California Civil Code, and any statute, rule and legal doctrine similar, comparable, or equivalent to California Civil Code Section 1542, which provides that:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

The Named Plaintiffs and each Settlement Class Member agree that the provisions of California Civil Code Section 1542, or similar federal or state laws, rights, rules, or legal principles, to the extent they are found to be applicable herein, are hereby knowingly and voluntarily waived, relinquished, and released. The Named Plaintiffs and each Settlement Class Member recognize, that, even if they may later discover facts in addition to or different from those which they now know or believe to be true, they nevertheless agree that, upon entry of the final Judgment, they fully, finally, and forever settle and release any and all claims covered by these Releases. The Settling Parties, including all Settlement Class Members, acknowledge that the foregoing Releases were bargained for and are a material element of the Agreement.

(f) The Releases were bargained for and are a material element of the Settlement Agreement.

(g) The Releases do not affect the rights of Settlement Class Members who timely and properly submitted a Request for Exclusion from the Settlement in accordance with the requirements of the Preliminary Approval Order and in Section 10 of the Settlement Agreement.

(h) The administration and consummation of the Settlement as embodied in the Settlement Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, enforcement of the Releases. The Court expressly retains jurisdiction in order to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement.

(i) The Settlement Agreement shall be the exclusive remedy for any and all Settlement Class Members, except those who have properly requested exclusion (opted out), and the Released Persons shall not be subject to liability or expense for any of the Released Claims to any Settlement Class Member(s).

(j) The Releases shall not preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed therein. The Releases set forth herein and in the Settlement Agreement are not intended to include the release of any rights or duties of the Settling Parties arising out of the Settlement Agreement, including the express warranties and covenants contained herein.

13. All Settlement Class Members who did not timely exclude themselves from the Settlement Class are, from this day forward, hereby permanently barred and enjoined from

directly or indirectly: (i) filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise), any lawsuit in any jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in the Litigation and/or the Released Claims (as that term is defined in the Settlement Agreement); or (ii) organizing any Settlement Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on or relating to any of the Released Claims or the facts and circumstances relating thereto.

14. Promptly after the Final Settlement Date, Settlement Class Members shall dismiss with prejudice all claims, actions, or proceedings that have been brought by any Settlement Class Member in any other jurisdiction and that have been released pursuant to the Settlement Agreement and this Final Order and Judgment.

15. Neither the Settlement Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein, nor this Final Order and Judgment, nor any of its terms and provisions, shall be:

(a) offered by any person or received against Chase as evidence or construed as or deemed to be evidence of any presumption, concession, or admission by Chase of the truth of the facts alleged by any person or the validity of any claim that has been or could have been asserted in the Litigation or in any other litigation or judicial or administrative proceeding, or the deficiency of any defense that has been or could have been asserted in the Litigation or in any litigation, or of any liability, negligence, fault, or wrongdoing of Chase;

(b) offered by any person or received against Chase as evidence of a presumption, concession, or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by Chase or any other wrongdoing by Chase;

(c) offered by any person or received against Chase as evidence of a presumption, concession, or admission with respect to any liability, negligence, fault, or wrongdoing in any civil, criminal, or administrative action or proceeding;

(d) offered or received in evidence in any action or proceeding against any Party hereto in any court, administrative agency, or other tribunal for any purpose whatsoever, other than to enforce or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto), including the Releases, or the Final Order and Judgment.

17. This Final Order and Judgment and the Settlement Agreement (including the exhibits thereto) may be filed in any action against or by any Released Person (as that term is defined herein and the Settlement Agreement) to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

18. Without further order of the Court, the Settling Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement.

19. In the event that the Final Settlement Date does not occur, this Final Order and Judgment shall automatically be rendered null and void and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void. In the

event that the Final Settlement Date does not occur, the Settlement Agreement shall become null and void and be of no further force and effect; neither the Settlement Agreement nor the Court's Orders, including this Order, shall be used or referred to for any purpose whatsoever; and the Parties shall retain, without prejudice, any and all objections, arguments, and defenses with respect to class certification, including the right to argue that no class should be certified for any purpose, and with respect to any claims or allegations in this Litigation.

20. This Litigation, including all individual claims and class claims presented herein, is hereby dismissed on the merits and with prejudice against Plaintiffs and all other Settlement Class Members, without fees or costs to any party except as otherwise provided herein.

DONE and ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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UNITED STATES DISTRICT JUDGE  
Honorable Jesus G. Bernal