

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ALASKA ELECTRICAL PENSION FUND,
et al.,

Plaintiffs,

v.

BANK OF AMERICA, N.A., et al.,

Defendants.

Lead Case No.: 14-cv-7126 (JMF)

**[PROPOSED] ORDER GRANTING LEAD COUNSEL’S MOTION FOR ATTORNEYS’
FEES, PAYMENT OF LITIGATION EXPENSES, AND INCENTIVE AWARDS**

Lead Counsel’s Motion for Attorneys’ Fees, Litigation Expenses, and Incentive Awards (the “Fee and Expense Application”) came before the Court for hearing on November 8, 2018. The Court has considered all papers filed and proceedings held in connection with the above-captioned Action, including all written objections received regarding the Fee and Expense Application, and all matters presented at the May 30, 2018 and November 8, 2018 Fairness Hearings, and is fully informed of these matters. Adequate notice having been given to the Settlement Class as required by the Court’s October 24, 2017 Order Providing for Notice to the Settlement Class and Preliminarily Approving the Plan of Distribution and June 26, 2018 Order Preliminarily Approving an Additional Settlement and the Related Plan of Distribution, and Approving the Manner and Forms for Notice (Dkt. Nos. 521, 669), and having considered all papers and proceedings in this matter, the Court finds, concludes, and orders as follows:

1. This Order incorporates by reference the definitions in the Stipulations and Agreements of Settlement (*see* Dkt. Nos. 222-1, 222-2, 222-3, 222-4, 222-5, 222-6, 222-7, 331-

1, 490-1, 490-2; 667-1; collectively, the “Settlement Agreements”) and all capitalized terms used but not defined herein shall have the same meanings as in the Settlement Agreements.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all members of the Settlement Class.

3. Notice of the Fee and Expense Application was provided to potential Settlement Class members in a reasonable manner, and such Notice complies with Rule 23(h)(1) of the Federal Rules of Civil Procedure and due process requirements.

4. Settlement Class Members were given the opportunity to object to the Fee and Expense Application in compliance with Rule 23(h)(2) of the Federal Rules of Civil Procedure.

5. The Fee and Expense Application is granted as described below.

6. Lead Counsel are hereby awarded attorneys’ fees in the amount of \$151,350,000 (30.00% of the total Settlement Fund) and \$18,429,687.63 in payment of litigation expenses, and interest on such attorneys’ fees and expenses at the same rate as the earnings in the Settlement Fund, accruing from the inception of the Settlement Fund.

7. In making this award of attorneys’ fees and expenses to be paid from the Settlement Fund, the Court has considered and finds that:

a. The Settlement Agreements have created a total Settlement Fund of \$504,500,000 that has been transferred to an Escrow Account administered by Escrow Agent Lead Counsel for the benefit of the Settlement Class pursuant to the terms of the Settlement Agreements;

b. Settlement Class Members who submit acceptable proof of claim forms will benefit from the Settlement Agreements because of the efforts of Lead Counsel;

c. The fee sought by Lead Counsel is fair and reasonable;

d. The expenses sought by Lead Counsel are reasonable and were necessarily incurred;

e. The Notice mailed to potential Settlement Class Members stated that Lead Counsel would seek attorneys' fees of up to 30% of the total Settlement Fund, the payment of litigation expenses, and interests on such fees and expenses earned at the same rate as the earnings on the Settlement Fund, accruing from inception of the Settlement Fund, and further directed any potential Settlement Class Members to a website on which the Fee and Expense Application was accessible as of October 3, 2018;

f. Lead Counsel have prosecuted the Action with skill, perseverance, and diligence, as reflected by the substantial Settlement Fund achieved and the positive reception of the Settlement Agreements by the Settlement Class;

g. The Action involves complex factual and legal issues that have been extensively researched and developed by Lead Counsel, and vigorously disputed in motion practice and discovery for over four years;

h. A significant risk exists that without the Settlement Agreements, Plaintiffs and Settlement Class Members may have recovered significantly less or nothing from Defendants¹;

i. Public policy considerations support the requested fee, as the successful prosecution of this Action required lawyers with considerable expertise; and

¹ The Settling Defendants are Bank of America N.A.; Barclays Bank PLC and Barclays Capital Inc.; Citigroup Inc.; Credit Suisse AG, New York Branch; Deutsche Bank AG; The Goldman Sachs Group, Inc.; HSBC Bank USA, N.A.; JPMorgan Chase & Co.; Royal Bank of Scotland, PLC; UBS AG; B.N.P. Paribas SA; ICAP Capital Markets LLC; Morgan Stanley & Co. LLC; Nomura Securities International, Inc.; and Wells Fargo Bank, N.A.

j. The amount of attorneys' fees awarded and expenses paid is appropriate to the specific circumstances of the Action and consistent with awards in similar cases.

8. For the reasons stated in the record, including in Lead Counsel's Reply Memorandum of Law in Support of the Fee and Expense Application, and at the November 8, 2018 Fairness Hearing, the single objection to Lead Counsel's September 28, 2018 fee request (*see* Dkt. No. 716) fails to establish that the attorneys' fees sought are unreasonable in light of the specific circumstances of this matter, and is hereby overruled.

9. Lead Counsel shall allocate the awarded attorneys' fees and expenses among Lead Counsel and other counsel in a manner in which, in Lead Counsel's judgment, reflects the contributions of such counsel to the prosecution of and settlements achieved in the Action.

10. Settlement Class representative Alaska Electrical Pension Fund is hereby awarded \$50,000 from the Settlement Fund in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

11. Settlement Class representative Genesee County Employees' Retirement System is hereby awarded \$50,000 from the Settlement Fund in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

12. Settlement Class representative County of Montgomery, Pennsylvania is hereby awarded \$50,000 from the Settlement Fund in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

13. Settlement Class representative County of Washington, Pennsylvania is hereby awarded \$50,000 from the Settlement Fund in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

14. Settlement Class representative City of New Britain, Connecticut is hereby awarded \$50,000 from the Settlement Fund in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

15. Settlement Class representative Pennsylvania Turnpike Commission is hereby awarded \$50,438.87 from the Settlement Fund (\$50,000 incentive award plus \$438.87 in out-of-pocket expenses) in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

16. Settlement Class representative Erste Abwicklungsanstalt (EAA) is hereby awarded \$210,399.02 (\$100,000 incentive award plus \$110,399.02 in out-of-pocket expenses) from the Settlement Fund in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

17. Settlement Class representative Portigon AG is hereby awarded \$116,260 (\$100,000 incentive award plus \$16,260 in out-of-pocket expenses) from the Settlement Fund in recognition of its contributions and reasonable expenses related to the Action on behalf of the Settlement Class.

18. For avoidance of doubt, nothing in this Order disturbs the Court's prior approval of ¶3.9 of the Settlement Agreements, which govern payments of Class Notice and Administration Expenses, both prior to and following the Effective Date, without separate application to or order by the Court.

19. This Fee and Expense Award is independent of the Court's consideration of the fairness, reasonableness, and adequacy of the Settlements and is also independent of the Court's consideration the Plan of Distribution. The fees, expenses, and interest awarded herein shall be payable from the Settlement Fund upon entry of this Order.

IT IS SO ORDERED.

DATED: New York, New York
_____, 2018

HON. JESSE M. FURMAN
UNITED STATES DISTRICT JUDGE