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12 *Lead Counsel for Plaintiffs and the Settlement Class*

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

15 In re CAPSTONE TURBINE
16 CORPORATION SECURITIES
17 LITIGATION

18 Lead Case No.: 2:15-CV-08914-DMG-
19 RAOx

20 **PLAINTIFFS' NOTICE OF MOTION**
21 **AND MOTION FOR FINAL**
22 **APPROVAL OF CLASS ACTION**
23 **SETTLEMENT AND PLAN OF**
24 **ALLOCATION**

25 Date: November 15, 2019
26 Time: 10:00 a.m.
27 Crtm: 8C
28 Judge: Hon. Dolly M. Gee

1 **TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR**
2 **ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that pursuant to Rule 23(e) of the Federal Rules of
4 Civil Procedure and the Court’s Order Granting Preliminary Approval of Settlement
5 (Dkt. No. 122), on November 15, 2019, at 10:00 a.m., or as soon thereafter as counsel
6 may be heard, in the Courtroom of the Honorable Dolly M. Gee, United States District
7 Judge, Central District of California, located at 350 West 1st Street, Courtroom 8C, 8th
8 Floor, Los Angeles, CA, 90012, Lead Plaintiffs Randall and Elizabeth Kay
9 (collectively “Lead Plaintiffs”), and named plaintiffs David Kinney and John Perez
10 (collectively “Named Plaintiffs” and together with Lead Plaintiffs, “Plaintiffs”) will and
11 hereby do move the Court for: (1) entry of the proposed Judgment Approving Class
12 Action Settlement; and (2) entry of the [Proposed] Order Approving Plan of Allocation
13 of the Net Settlement Fund.¹

14 This motion is based on the concurrently filed Memorandum of Points and
15 Authorities in Support of Plaintiffs’ Motion for Final Approval of Class Action
16 Settlement and Plan of Allocation, and the previously filed Declaration of Casey E.
17 Sadler in Support of: (I) Plaintiffs’ Motion for Final Approval of Class Action
18 Settlement and Plan of Allocation; and (II) Lead Counsel’s Motion for an Award of
19 Attorneys’ Fees and Reimbursement of Litigation Expenses (Dkt. No. 127), as well as
20 the pleadings and papers on file in this Action and any further evidence and argument
21 as may be presented at the hearing.

22 This motion is made following the conference of counsel pursuant to Local Rule
23 7-3, which took place on October 17, 2019. Lead Counsel conferred with Defendants’
24 counsel with respect to this motion prior to filing, and Defendants’ Counsel have
25 authorized Lead Counsel to represent that Defendants do not oppose this motion where
26 it addresses the bases for final approval of the Settlement and Plan of Allocation. As to

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¹ All capitalized terms have the meanings set forth in the Stipulation and Agreement of
28 Settlement dated April 12, 2019. Dkt. No. 118-1.

1 any portion of this motion that is submitted in further support of Lead Counsel's
2 Motion for an Award of Attorneys' Fee and Reimbursement of Litigation Expenses,
3 Defendants' Counsel have authorized Lead Counsel to represent that Defendants do not
4 take a position on the motion.

5 Proposed orders granting the requested relief is submitted herewith. In addition,
6 an updated version of the proposed order previously submitted with Lead Counsel's
7 application for an award of attorneys' fees and reimbursement of Litigation Expenses is
8 also submitted herewith.

9 DATED: October 25, 2019

GLANCY PRONGAY & MURRAY LLP

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By: /s/ Casey E. Sadler
Lionel Z. Glancy
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Lead Counsel for Plaintiffs and the Settlement Class

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PROOF OF SERVICE BY ELECTRONIC POSTING

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On October 25, 2019, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court’s Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 25, 2019, at Los Angeles, California.

s/ Casey E. Sadler

Casey E. Sadler

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In re CAPSTONE TURBINE
CORPORATION SECURITIES
LITIGATION

Lead Case No.: 2:15-CV-08914
DMG (RAO)

Honorable Dolly M. Gee

JUDGMENT APPROVING CLASS ACTION SETTLEMENT

This matter came before the Court pursuant to the Order Preliminarily Approving Settlement and Providing for Notice (“Preliminary Approval Order”) dated May 17, 2019, on the application of the Parties for approval of the Settlement set forth in the Stipulation and Agreement of Settlement dated April 12, 2019 (the “Stipulation”).¹ Due and adequate notice having been given to the Settlement Class as required in said Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the Settlement Class Members.

¹ Unless otherwise stated, all capitalized terms that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation. ECF No. 118-1.

1 2. **Incorporation of Settlement Documents** – This Judgment incorporates
2 and makes a part hereof: (a) the Stipulation filed with the Court on April 12, 2019; and
3 (b) the Notice, the Summary Notice, and the Postcard Notice, all of which were filed
4 with the Court on April 12, 2019.
5

6 3. **Class Certification for Settlement Purposes** – The Court hereby affirms
7 its determinations in the Preliminary Approval Order certifying, for the purposes of the
8 Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the
9 Federal Rules of Civil Procedure on behalf of the Settlement Class consisting of all
10 persons and entities who or which purchased or otherwise acquired Capstone common
11 stock between June 12, 2014 and November 5, 2015, inclusive (the “Settlement Class
12 Period”) and were damaged thereby. Excluded from the Settlement Class are
13 Defendants; members of the Immediate Family of each of the Individual Defendants;
14 the Officers and/or directors of Capstone; any person, firm, trust, corporation, Officer,
15 director or other individual or entity in which any Defendant has a controlling interest
16 or which is related to or affiliated with any of the Defendants; and the legal
17 representatives, agents, affiliates, heirs, successors-in-interest or assigns of any such
18 excluded party. Also excluded from the Settlement Class are the persons and entities
19 listed on Exhibit 1 hereto who or which are excluded from the Settlement Class
20 pursuant to request.
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26 4. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules
27 of Civil Procedure, and for the purposes of the Settlement only, the Court hereby
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1 affirms its determinations in the Preliminary Approval Order certifying Lead Plaintiffs
2 as Class Representatives for the Settlement Class and appointing Lead Counsel as Class
3 Counsel for the Settlement Class. Lead Plaintiffs and Lead Counsel have fairly and
4 adequately represented the Settlement Class both in terms of litigating the Action and
5 for purposes of entering into and implementing the Settlement and have satisfied the
6 requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.
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9 5. **Notice** – The Court finds that the dissemination of the Postcard Notice, the
10 online posting of the Notice, and the publication of the Summary Notice: (a) were
11 implemented in accordance with the Preliminary Approval Order; (b) constituted the
12 best notice practicable under the circumstances; (c) constituted notice that was
13 reasonably calculated, under the circumstances, to apprise Settlement Class Members of
14 (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the
15 Releases to be provided thereunder); (iii) Lead Counsel’s motion for an award of
16 attorneys’ fees and reimbursement of Litigation Expenses; (iv) their right to object to
17 any aspect of the Settlement, the Plan of Allocation and/or Lead Counsel’s motion for
18 attorneys’ fees and reimbursement of Litigation Expenses; (v) their right to exclude
19 themselves from the Settlement Class; and (vi) their right to appear at the Settlement
20 Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities
21 entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements
22 of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution
23 (including the Due Process Clause), and the Private Securities Litigation Reform Act of
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1 1995, 15 U.S.C. § 78u-4, as amended.

2 6. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and
3
4 in accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby
5 fully and finally approves the Settlement set forth in the Stipulation in all respects
6 (including, without limitation: the amount of the Settlement; the Releases provided for
7
8 therein; and the dismissal with prejudice of the claims asserted against Defendants in
9 the Action), and finds that the Settlement is, in all respects, fair, reasonable and
10 adequate to the Settlement Class. The Parties are directed to implement, perform and
11 consummate the Settlement in accordance with the terms and provisions contained in
12 the Stipulation.
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14 7. The Action and all of the claims asserted against Defendants in the Action
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16 by Plaintiffs and the other Settlement Class Members are hereby dismissed with
17 prejudice. The Parties shall bear their own costs and expenses, except as otherwise
18 expressly provided in the Stipulation.
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20 8. **Binding Effect** – The terms of the Stipulation and of this Judgment shall
21 be forever binding on Defendants, Plaintiffs and all other Settlement Class Members
22 (regardless of whether or not any individual Settlement Class Member submitted a
23
24 Claim Form or sought or seeks or obtains a distribution from the Net Settlement Fund),
25 as well as their respective successors and assigns. The persons and entities listed on
26 Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not
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28 bound by the terms of the Stipulation or this Judgment.

1 9. Releases – The Releases set forth in paragraphs 6 and 8 of the Stipulation,
2 together with the definitions contained in paragraph 1 of the Stipulation relating thereto,
3 are expressly incorporated herein in all respects. The Releases are effective as of the
4 Effective Date. Accordingly, this Court orders that:
5

6 (a) Without further action by anyone, and subject to paragraph 10
7 below, upon the Effective Date of the Settlement, Plaintiffs and each of the other
8 Settlement Class Members, on behalf of themselves, and their respective heirs,
9 executors, administrators, predecessors, successors, and assigns in their capacities as
10 such, shall be deemed to have, and by operation of law and of this Judgment shall have,
11 fully, finally and forever compromised, settled, released, resolved, relinquished, waived
12 and discharged each and every Released Plaintiffs' Claim (including, without
13 limitation, Unknown Claims) against the Defendants and the other Defendants'
14 Releasees (whether or not such Settlement Class Member executed and delivered a
15 Proof of Claim form or obtains a distribution from the Net Settlement Fund).
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17 (b) Without further action by anyone, upon the Effective Date,
18 Plaintiffs and each of the Settlement Class Members and anyone claiming through or on
19 behalf of them, shall be permanently barred and enjoined from (i) the commencement,
20 assertion, institution, maintenance, prosecution, or enforcement against any Defendant
21 or any other Defendants' Releasee of any action or other proceeding in any court of law
22 or equity, arbitration, tribunal, administrative forum, or forum of any kind, asserting
23 any of Plaintiffs' Released Claims (including, without limitation, Unknown Claims),
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1 and/or (ii) appealing any prior rulings in this case.

2 (c) Without further action by anyone, and subject to paragraph 10
3 below, upon the Effective Date of the Settlement, Defendants, on behalf of themselves,
4 and their respective heirs, executors, administrators, predecessors, successors, and
5 assigns in their capacities as such, shall be deemed to have, and by operation of law and
6 of this Judgment shall have, fully, finally and forever compromised, settled, released,
7 resolved, relinquished, waived and discharged each and every Released Defendants'
8 Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be
9 enjoined from prosecuting any or all of the Released Defendants' Claims against any of
10 the Plaintiffs' Releasees. This Release shall not apply to any person or entity listed on
11 Exhibit 1 hereto.

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16 10. Notwithstanding paragraphs 9(a) – (c) above, nothing in this Judgment
17 shall bar any action by any of the Parties to enforce or effectuate the terms of the
18 Stipulation or this Judgment.

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20 11. **Rule 11 Findings** – The Court finds and concludes that the Parties and
21 their respective counsel have complied in all respects with the requirements of Rule 11
22 of the Federal Rules of Civil Procedure in connection with the institution, prosecution,
23 defense, and settlement of the Action.

24
25 12. **No Admissions** – Neither this Judgment, the term sheets, or the
26 Stipulation (whether or not consummated), including the exhibits thereto and the Plan
27 of Allocation contained therein (or any other plan of allocation that may be approved by
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1 the Court), the negotiations leading to the execution of the term sheets and the
2 Stipulation, nor any proceedings taken pursuant to or in connection with the term
3 sheets, Stipulation and/or approval of the Settlement (including any arguments
4 proffered in connection therewith):

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6 (a) is or may be deemed to be or may be used as an admission of, or
7 evidence of, the validity of any Released Claim, or of any wrongdoing or liability of
8 Defendants or the other Defendants' Releasees;

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10 (b) is or may be deemed to be or may be used as an admission of, or
11 evidence of, any fault or omission of any of Defendants or the other Defendants'
12 Releasees in any civil, criminal or administrative proceeding in any court,
13 administrative agency or other tribunal. Defendants and the other Defendants'
14 Releasees may file the Stipulation and Judgment in any action that may be brought
15 against them in order to support a defense or counterclaim based on principles of *res*
16 *judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction
17 or any other theory of claim preclusion or issue preclusion or similar defense or
18 counterclaim, or in connection with any proceeding to enforce the terms of the
19 Stipulation;

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21 (c) shall be offered against any of the Plaintiffs' Releasees, as evidence
22 of, or construed as, or deemed to be evidence of any presumption, concession or
23 admission by any of the Plaintiffs' Releasees that any of their claims are without merit,
24 that any of the Defendants' Releasees had meritorious defenses, or that damages
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1 recoverable under the Complaint would not have exceeded the Settlement Amount or
2 with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way
3 referred to for any other reason as against any of the Plaintiffs' Releasees, in any civil,
4 criminal or administrative action or proceeding, other than such proceedings as may be
5 necessary to effectuate the provisions of this Stipulation; or
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8 (d) shall be construed against any of the Releasees as an admission,
9 concession, or presumption that the consideration to be given under the Settlement
10 represents the amount which could be or would have been recovered after trial;
11 *provided, however*, that the Parties and the Releasees and their respective counsel may
12 refer to this Judgment and the Stipulation to effectuate the protections from liability
13 granted hereunder and thereunder or otherwise to enforce the terms of the Settlement.
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16 13. **Retention of Jurisdiction** – Without affecting the finality of this
17 Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a)
18 the Parties for purposes of the administration, interpretation, implementation and
19 enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any
20 motion for an award of attorneys' fees and/or Litigation Expenses by Lead Counsel in
21 the Action that will be paid from the Settlement Fund; (d) any motion to approve the
22 Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the
23 Settlement Class Members for all matters relating to the Action.
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27 14. Separate orders shall be entered regarding approval of a plan of allocation
28 and the motion of Lead Counsel for an award of attorneys' fees and reimbursement of

1 Litigation Expenses. Such orders shall in no way affect or delay the finality of this
2 Judgment and shall not affect or delay the Effective Date of the Settlement.

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4 15. **Modification of the Agreement of Settlement** – Without further approval
5 from the Court, Plaintiffs and Defendants are hereby authorized to agree to and adopt
6 such amendments or modifications of the Stipulation or any exhibits attached thereto to
7 effectuate the Settlement that: (a) are not materially inconsistent with this Judgment;
8 and (b) do not materially limit the rights of Settlement Class Members in connection
9 with the Settlement. Without further order of the Court, Plaintiffs and Defendants may
10 agree to reasonable extensions of time to carry out any provisions of the Settlement.
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13 16. **Termination of Settlement** – In the event the Settlement does not become
14 effective in accordance with the terms of the Stipulation or the Effective Date of the
15 Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and
16 void and be of no further force and effect, except as otherwise provided by the
17 Stipulation, and this Judgment shall be without prejudice to the rights of Plaintiffs, the
18 other Settlement Class Members, and Defendants, and the Parties shall revert to their
19 respective positions in the Action as of November 16, 2018, as provided in the
20 Stipulation.
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24 17. Without further order of the Court, the Settling Parties may agree to
25 reasonable extensions of time to carry out any of the provisions of the Stipulation.
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27 18. **Entry of Final Judgment** – The Clerk of the Court is expressly directed
28 to immediately enter this final judgment in this Action.

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SO ORDERED this _____ day of _____, 20____.

The Honorable Dolly M. Gee
United States District Judge

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Exhibit 1

List of Persons and Entities Excluded from the Settlement Class

Pursuant to Request

1. Philip Hubbell
2. David & Sharon Mullikin
3. Barbara Wolford
4. Roy Fersch

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In re CAPSTONE TURBINE
CORPORATION SECURITIES
LITIGATION

Lead Case No.: 2:15-CV-08914-DMG-
RAOx

Honorable Dolly M. Gee

**[PROPOSED] ORDER APPROVING
PLAN OF ALLOCATION OF NET SETTLEMENT FUND**

This matter came on for hearing on November 15, 2019 (the “Settlement Hearing”) on Plaintiffs’ motion to determine whether the proposed plan of allocation of the Net Settlement Fund (“Plan of Allocation”) created by the Settlement achieved in the above-captioned consolidated class action (the “Action”) should be approved. The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *Investor’s Business Daily* and was transmitted over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the proposed Plan of Allocation,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order approving the proposed Plan of Allocation incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated April 12, 2019 (Dkt. No. 118-1) (the “Stipulation”) and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.
2. The Court has jurisdiction to enter this Order approving the proposed Plan of Allocation, and over the subject matter of the Action and all parties to the Action, including all Settlement Class Members.

1 3. Notice of Plaintiffs' motion for approval of the proposed Plan of
2 Allocation was given to all Settlement Class Members who could be identified with
3 reasonable effort. The form and method of notifying the Settlement Class of the motion
4 for approval of the proposed Plan of Allocation satisfied the requirements of Rule 23 of
5 the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of
6 1995 (15 U.S.C. § 78u-4(a)(7)), and due process, constituted the best notice practicable
7 under the circumstances, and constituted due and sufficient notice to all persons and
8 entities entitled thereto.

9 4. Copies of the Postcard Notice were mailed to over 36,900 potential
10 Settlement Class Members, which directed Settlement Class Members and nominees to
11 the Notice posted on the Settlement Website, which included the Plan of Allocation,
12 and no objections to the proposed plan were submitted.

13 5. The Court hereby finds and concludes that the formula for the calculation
14 of the claims of Claimants as set forth in the Plan of Allocation provided to Settlement
15 Class Members provides a fair and reasonable basis upon which to allocate the
16 proceeds of the Net Settlement Fund among Settlement Class Members with due
17 consideration having been given to administrative convenience and necessity.

18 6. The Court hereby finds and concludes that the Plan of Allocation is, in all
19 respects, fair and reasonable to the Settlement Class.

20 7. There is no just reason for delay in the entry of this Order, and immediate
21 entry by the Clerk of the Court is expressly directed.

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23 SO ORDERED this _____ day of _____, 2019.

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27 _____
The Honorable Dolly M. Gee
United States District Judge

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA

3 In re CAPSTONE TURBINE
4 CORPORATION SECURITIES
5 LITIGATION

Lead Case No.: 2:15-CV-08914-DMG-
RAOx

Honorable Dolly M. Gee

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8 **[PROPOSED] ORDER AWARDING ATTORNEYS' FEES**
9 **AND REIMBURSEMENT OF LITIGATION EXPENSES**

10 This matter came on for hearing on November 15, 2019 (the "Settlement
11 Hearing") on Lead Counsel's Motion for an Award of Attorneys' Fees and
12 Reimbursement of Litigation Expenses. The Court having considered all matters
13 submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of
14 the Settlement Hearing substantially in the form approved by the Court was provided to
15 all Settlement Class Members who or which could be identified with reasonable effort,
16 and that a summary notice of the hearing substantially in the form approved by the
17 Court was published in *Investor's Business Daily* and was transmitted over the *PR*
18 *Newswire* pursuant to the specifications of the Court; and the Court having considered
19 and determined the fairness and reasonableness of the award of attorneys' fees and
20 litigation expenses requested,

21 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

22 1. This Order incorporates by reference the definitions in the Stipulation and
23 Agreement of Settlement dated April 12, 2019 (Dkt. No. 118-1) (the "Stipulation") and
24 all capitalized terms not otherwise defined herein shall have the same meanings as set
25 forth in the Stipulation.

26 2. The Court has jurisdiction to enter this Order and over the subject matter
27 of the Action and all parties to the Action, including all Settlement Class Members.

1 3. Notice of Lead Counsel’s Motion for an Award of Attorneys’ Fees and
2 Reimbursement of Litigation Expenses was given to all Settlement Class Members who
3 could be identified with reasonable effort. The form and method of notifying the
4 Settlement Class of the motion for an award of attorneys’ fees and expenses satisfied
5 the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private
6 Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)) and due process,
7 constituted the best notice practicable under the circumstances, and constituted due and
8 sufficient notice to all persons and entities entitled thereto.

9 4. Lead Counsel are hereby awarded attorneys’ fees in the amount of
10 _____% of the Settlement Fund and \$_____ in reimbursement of
11 litigation expenses (which fees and expenses shall be paid from the Settlement Fund),
12 which sums the Court finds to be fair and reasonable. In making this award of
13 attorneys’ fees and reimbursement of expenses to be paid from the Settlement Fund, the
14 Court has considered and found that:

15 A. The Settlement has created a fund consisting of \$5,550,000 in cash
16 that has been funded into escrow pursuant to the terms of the Stipulation, and
17 that numerous Settlement Class Members who submit acceptable Claim Forms
18 will benefit from the Settlement that occurred because of the efforts of Lead
19 Counsel;

20 B. The Settlement represents approximately 18.6% - 47.7% of the
21 Settlement Class’s maximum recoverable damages, which is a highly favorable
22 result;

23 C. Copies of the Postcard Notice, which referred potential Settlement
24 Class Members to the Settlement Website and the Notice, were mailed to over
25 36,900 potential Settlement Class Members and nominees stating that Lead
26 Counsel would apply for attorneys’ fees in an amount not exceed 30% of the
27 Settlement Fund and reimbursement of litigation expenses in an amount not to
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1 exceed \$140,000, and there were no objections to the requested attorneys' fees
2 and expenses;

3 D. Lead Counsel has conducted the litigation and achieved the
4 Settlement with skill, perseverance and diligent advocacy;

5 E. The Action raised a number of complex issues;

6 F. Had Lead Counsel not achieved the Settlement, there would remain
7 a significant risk that Plaintiffs and the other members of the Settlement Class
8 may have recovered less or nothing from Defendants;

9 G. Lead Counsel undertook the Action on a fully contingent basis,
10 thereby assuming the risk of loss;

11 H. Counsel in this Action have devoted over 2,300 hours, with a
12 lodestar value of approximately \$1,398,140.25, to achieve the Settlement; and

13 I. The amount of attorneys' fees awarded and expenses to be
14 reimbursed from the Settlement Fund are fair and reasonable and consistent with
15 awards in similar cases.

16 5. Plaintiffs are hereby awarded reimbursement from the Settlement Fund as
17 reimbursement for their reasonable costs and expenses directly related to their
18 representation of the Settlement Class in the following amounts:

19 A. Lead Plaintiff Randall Kay is awarded \$_____;

20 B. Lead Plaintiff Elizabeth Kay is awarded \$_____;

21 C. Plaintiff David Kinney is awarded \$_____;

22 D. Plaintiff John Perez is awarded \$_____;

23 6. Any appeal or any challenge affecting this Court's approval regarding any
24 attorneys' fees and expense application shall in no way disturb or affect the finality of
25 the Judgment.

26 7. Exclusive jurisdiction is hereby retained over the parties and the
27 Settlement Class Members for a period of five (5) years for all matters relating to this
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1 Action, including the administration, interpretation, effectuation or enforcement of the
2 Stipulation and this Order.

3 8. In the event that the Settlement is terminated or the Effective Date of the
4 Settlement otherwise fails to occur, this Order shall be rendered null and void to the
5 extent provided by the Stipulation.

6 9. There is no just reason for delay in the entry of this Order, and immediate
7 entry by the Clerk of the Court is expressly directed.

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9 SO ORDERED this _____ day of _____, 2019.

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12 _____
13 The Honorable Dolly M. Gee
14 United States District Judge
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