UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM, on behalf of itself and all others similarly situated,

Plaintiff,

No. 11-cv-10230-MLW

vs.

STATE STREET BANK AND TRUST COMPANY,

Defendant.
_____/

ARNOLD HENRIQUEZ, MICHAEL T. COHN, WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND, and those similarly situated,

Plaintiffs,

No. 11-cv-12049-MLW

vs.

STATE STREET BANK AND TRUST COMPANY,

Defendant.
_____/

THE ANDOVER COMPANIES EMPLOYEE SAVINGS AND PROFIT SHARING PLAN, on behalf of itself, and JAMES PEHOUSHEK-STANGELAND and all others similarly situated,

Plaintiffs,

No. 12-cv-11698-MLW

vs.

STATE STREET BANK AND TRUST COMPANY,

Defendant.
_____/

SPECIAL MASTER'S REPORT IN RESPONSE TO COURT'S FEBRUARY 27, 2020 ORDER

On February 27, 2020, the Court issued its Memorandum & Order ("February 27 Order") [Dkt# 590] deciding *de novo* the parties' objections and related concerns raised in response to the Special Master's Report & Recommendations ("Report") issued on May 14, 2018. In its 159-page Order, the Court adjudicated the parties' rights through numerous factual findings and legal conclusions that, in total, adopted in part, rejected in part, and modified the Special Master's Report. Among other things, the Court entered a new fee award to counsel – in place of the original $75 million fee award vacated by the Court on June 22, 2018 – in the amount of $60,000,000 ("February 27 Fee Award"). Dkt # 590, p.158. The February 27 Fee Award allocates individual awards to each of the firms of record[1] effectively reallocating a total of $17,215,615.00 from the Customer Class counsel to the class and ERISA counsel. Of that amount, $14,384,827.16 will be distributed to the class, augmenting the class's total recovery to $238,511,036.97, and $2,830,787.84 to ERISA counsel.

In addition to the entrance of a new fee award, the Court's February 27 Order resubmitted the matter to the Special Master for further action under Fed. R. Civ. P. 53(f)(1). Specifically, it directed the Master to confer with counsel to determine whether notice to the class of the Court's February 27 Order is legally required, or otherwise appropriate, and to report on how best to implement the Order, including the reallocation of funds previously awarded to counsel. The Court further invited the Special Master to address any other issues relevant to the implementation of the Order.

[1] The Court allocated the $60 million fee award as follows: $22,202,131.25 paid to Labaton; $13,261,908.10 to Thornton; $15,233,397.53 to Lieff Cabraser; $3,978,152.18 to Keller Rohrback; $3,439,775.42 to McTigue; and $3,298,598.55 to Zuckerman Spaeder.

As described in more detail below, in furtherance of the order, the Special Master consulted with Class Counsel[2] and ERISA Counsel[3], as well as the Hamilton Lincoln Law Institute's Center for Class Action Fairness ("CCAF")[4], about providing notice to the class of the Court's February 27 Order. More specifically, the Special Master has also consulted with Labaton, who, as lead counsel, has possession of the settlement funds held for the class, about the most efficient and equitable way to remit payment to the class alongside implementation of the reallocation ordered by the Court.

During the conferral process, Lieff Cabraser informed the Special Master that the firm would likely appeal the Court's February 27 Order, and, on March 26, 2020, Lieff Cabraser filed a Notice of Appeal appealing from the February 27 Order, and specifically from the Court's "(i) award[] and allocat[ion] [of] settlement counsel's fees and expenses out of the common settlement fund in the Actions;" and the Court's finding that the firm violated Fed. R. Civ. P. 11(b) in the underlying conduct.[5] Dkt. # 596. Because any modification on appeal of either the February 27 Fee Award or the direct allocations made by the Court would invariably impact the total recovery of the class and timing of its payment, Lieff Cabraser's appeal is now relevant to the implementation of the Order. Accordingly, the Special Master will address this impact later in this Report.

[2] As referenced herein, Class Counsel refers to Labaton Sucharow, LLP, Lieff Cabraser Heimann & Bernstein, LLP and the Thornton Law Firm.

[3] As referenced herein, ERISA Counsel refers to Keller Rohrback, L.L.P., McTigue Law LLP, and Zuckerman Spaeder LLP.

[4] As of January 29, 2019, CCAF joined the Hamilton Lincoln Law Institute, a non-profit public interest law firm. Prior to this time, it was known as the Competitive Institute's Center for Class Action Fairness.

[5] Labaton Sucharow, LLP and the Thornton Law Firm are no appealing the February 27 Order.

Summary of the Special Master's Recommendations

As informed by these discussions, the Special Master makes the following recommendations:

1. That the class receive a new, robust notice informing it of the Court's allocation of attorneys' fees under the February 27 Fee Award.[6] The notice should be mailed through regular ground mail delivery to all class members as well as conspicuously posted to the class website with direct hyperlinks to the full copy of the Court's February 27 Order.[7] (For those class members who want a hard-copy of the notice, they may request one which will be mailed to them at no cost.)

2. ThThat Customer Class counsel pay the full $17,215,615 differential redistributed by the Court in its fee allocation into an escrow account managed by a third-party funds manager for redistribution to the class and ERISA counsel consistent with the Court's Order over the next approximately nine months.[8] In view of the substantial amount owed as well as the uncertain economic environment in our nation and its unknown duration, the Special Master recommends that Customer Class counsel be given the option of satisfying its respective obligations to the class and ERISA counsel through a tiered payment plan.

   It is recommended that the distribution to the class members and ERISA counsel occur in three phases:

   - The first phase involves the final distribution of the remaining $125 million[9] to Registered Investment Companies ("RICs") and ERISA class members by July 1, 2020.[10]
   - Next, an initial payment by the three Customer Class counsel firms into escrow of a total of $8,607,807.51 [11] by August 15, 2020, with a second distribution to the class and payment to ERISA counsel within 30 days.

[6] A proposed notice to the class is attached for the Court's consideration as Exhibit A.

[7] As part of his recommendations, the Special Master recommends that Labaton continue maintaining and routinely updating the class website, http://statestreetindirectfxclasssettlement.com/, until all class payments are made and final and this matter reaches its finality.

[8] A proposed payment plan distributing all remaining funds owed to the class as well as the funds reallocated by the February 27 Order is attached for the Court's consideration at Exhibit B.

[9] A reserve fund of 5% of the total amount originally allocated to the class will be withheld from distribution in order to satisfy any payment disputes, or other contingencies that arise after the payment for the first phase is complete.

[10] The RICs and class members received a distribution of $93,715,683.40 on December 28, 2017. However, another $125 million has remained in the fund awaiting distribution since that time.

[11] In the event that the Court amends the amounts awarded under the February 27 Fee Award, to respond to potential objections from the class members or otherwise, the payments described herein must be adjusted to reflect the changes in the total amounts reallocated to the class and ERISA Counsel, respectively.

ERISA counsel will receive half of their reallocated $2.8 million from this distribution.

- Finally, the third phase involves a second payment by the three Customer Class counsel firms into escrow of $8,607,807.49 paid by January 15, 2021,[12] with final distribution to the class and a second payment to ERISA counsel made within 30 days of that payment.[13] Thus ERISA counsel would receive the balance of their reallocated $2.8 million.

3. That Labaton continue as Lead Counsel responsible for distributing the existing and newly reallocated funds to the class. This includes distributing the current balance of $125 million to Registered Investment Companies and ERISA members by July 31, 2020.

4. That, to the extent that Lieff Cabraser challenges on appeal the Court's order for the firm to repay $1,139,457 to the class and ERISA Counsel and said challenge is not yet adjudicated, Lieff Cabraser shall be obligated to pay the full amount into the escrow account under the proposed payment plan. In the event that this Court or the appellate court issues an order modifying Lieff Cabraser's obligation, Lieff Cabraser may petition the Court to order that the other Customer Class counsel compensate Lieff Cabraser for any overpayment that results from following the proposed payment plan described herein.[14]

The class is entitled to written notice of the February 27 Fee Award and related matters

Throughout this case, the Special Master has been charged with balancing the need to compensate counsel for their work on the State Street matter, and the salutary result achieved, with the need to protect the class and its interests given the inherent potential for conflict in the attorney-client relationship in class action matters. Prior to the Court's recent order, CCAF has taken the position that the class was entitled to a new notice. Dkt. #451. In wake of the Court's February 27 Order issuing a new fee award, and explaining the legal and ethical concerns which prompted the need for such an award, the Special Master agrees that the class must be fully informed of the change in circumstances and the members be given an opportunity to object to

[12] Any balance that still remains after redistribution, which is not feasible or economical to reallocate, shall be contributed to one or more nonsectarian, not-for-profit, 501(c)(3) organizations serving the public interest approved by the Court.

[13] A complete proposed payment scheduling order is attached at Exhibit B.

[14] Requiring Lieff Cabraser to pay back its full reallocated amount is in lieu of a bond.

the Court's February 27 Fee Award if they so choose. Pursuant to the February 27 Order, the Special Master was directed to "Consult Class Counsel, ERISA Counsel, and CCAF, and report concerning whether notice to the class of new awards that have been ordered is legally required or appropriate." Id. at 158. The Special Master and his counsel did so. All parties responded; none objected to providing notice. Counsel for Labaton, McTigue Law, Thornton Law Firm, and the Hamilton Lincoln Law Institute's Center for Class Action Fairness (CCAF) stated that notice was required. Keller Rohrback and Zuckerman Spaeder stated that, while not required, notice would be prudent. Lief Cabraser took no position on notice.[15]

Notice to the class of the Court's Order is legally required by Rule 23

The need for new notice to the class is rooted firmly in the procedural protections embedded in Federal Rule of Civil Procedure 23. Rule 23 requires that the class be given notice of a class action suit at various stages in the attorney-driven process when an action, or proposed action, would substantially affect its rights. The inherent safeguards in Rule 23 recognize the need to regularly inform class members and allow them an opportunity to participate in decisions that affect their rights as plaintiffs in these matters.

Two provisions of Rule 23 affording the class an independent say in the litigation are particularly informative to the Special Master's recommendation that notice of the Court's February 27 Order is required in this instance. Fed. R. Civ. P. 23(c)(2)(B) requires that counsel notify potential class members of the legal claims they are pursuing and allow putative class members the opportunity to opt out of a lawsuit if they choose. Later in the process, Fed. R. Civ. P. 23(e)(1)(B) requires that, after joining a class action suit, class counsel inform the class of any proposed settlement, dismissal or compromise of its legal claims. Both 23(c) and 23(e) focus on

[15] Several counsel concurred that notice should include a link to the February 27 Order, should go directly to class members and should inform class members that they had a right to object.

the need for informing class members of actions that bind them – or otherwise affect their legal rights – and the class's right to make an independent decision by objecting or exercising its right to be exempt. Fed. R. Civ. P. 23(c)(2)(i)-(vii); 23(e)(1), (5). In both these instances, class members that condone the action may do so by acquiescing to counsel's decision. But it is critical that the class be fully informed of the legal actions taken on its behalf, even where the outcome is unequivocally positive – such as a settlement of $300 million dollars.

It is a bedrock principle of class action suits that class action members do not forfeit decision-making authority to class counsel by virtue of joining a large class. Counsel must continue to inform class members of material events affecting their legal rights. See Mass. R. Prof. C. 1.2, 1.4. This includes how much of the settlement funds obtained *on the class's behalf* are paid out to class counsel. Rule 23(h) requires counsel petitioning the court for reasonable attorneys' fees and nontaxable costs to provide the class with notice of even a request for fees. The request must be made in a reasonable manner and one that enables each class member the opportunity to object. Fed. R. Civ. P. 23(h)(1) – (2). By extension, the Court's adjudication of counsel's request to maintain a previous fee award in light of new and materially different circumstances must trigger the same degree of notice to the class.

Requiring judicial notice is well within the Court's discretion even outside of the confines of Rule 23(h). The Court has great discretion to require notice to the class at any step in a class action. The drafters of Rule 23 recognized the need for active involvement during the fee award stage. Cmts. to Fed. R. Civ. P. 23(h)("Active judicial involvement in measuring fee awards is singularly important to the proper operation of the class-action process.") The Court's prominence in protecting class members and ensuring fundamental fairness in a class action, at the fee award stage and throughout, is explicit in Fed. R. Civ. P. 23(d)(1)(B), which enables the

Court to require litigants to notify the class of any step in an action. Fed. R. Civ. P. 23(d)(1)(B)(i).

Although the posture of this matter – originally referred to the Special Master after the fee award and submitted back to the Court for issuance of a *de novo* fee award – is novel, the principles of Rule 23 squarely apply. First, the February 27 Fee Award substantially reduced the overall payment of attorneys' fees to counsel while increasing the total recovery by the class and reallocating an additional approximately $17.2 million – a significant change from the original request and award. *See* Rule 23(h). The Court's Order also significantly altered the class's total recovery rights. Notice of such a material change – even if a positive one – does not obviate the need for adequate notice to the class. Because this money derives directly from an amendment to the payment of the original $30 million settlement agreement settling the class's legal claims, Rule 23(e) requires that counsel timely inform class members of this change to its final recovery.

At all stages of a matter, "members of the class have an interest in the arrangements for payment of class counsel whether that payment comes from the class fund or is made directly by another party, notice is required in *all instances* (emphasis added)." Cmts. to Fed. R. Civ. P. 23(h), para. 1. The February 27 Fee Award weighed the respective positions of counsel and the Special Master as to how much of the $300 million settlement Customer Class and ERISA counsel are entitled to receive – including evaluating counsel's initial petition – and the Court made a new allocation of fees and articulated the legal and factual bases for the change. The Order not only outlines the parties' requests but provides the factual basis for awarding 20 % of the total settlement to counsel charged with representing the class's interests. The class is entitled to review it and each member may object if they wish.[16]

[16] Conceivably, some class members could believe that given the conduct illuminated in both the Special Master's Report and the Court's February 27 Order, and the substantial reduction of fees in that Order, the fee award to

The class should be informed of the Court's February 27 Order in the newly issued notice and given access to it by electronic means and, if requested, by hard copy

The Special Master recommends that Labaton coordinate provision of a new notice to each class members in a two-step process. First, to direct AB Data, Ltd. to mail out written notices to the last known address of each class member.[17] Second, to post an electronic version of the notice – complete with a link to the Court's February 27 Order – on the class action website http://statestreetindirectfxclasssettlement.com/.

Rule 23, in its most recent form, provides that the class receive the "best notice practicable" throughout the class action process. Informing the class of a substantial change to the attorneys' fee award – and advising it of its right to object to it – must be done in a way that meets this requirement. While electronic transmission is often a more expedient way of communicating, in this instance, it may not be the most practicable. In 2018, the Federal Rules of Civil Procedures were amended to allow electronic transmission. But in doing so, the drafters recognized that it was not a one-size-fits-all requirement: while "it may sometimes be true that electronic methods of notice, for example email, are the most promising, it is important to keep in mind that a significant portion of class members in certain cases may have limited or no access to email or the Internet." 2018 Cmts. to Fed. R. Civ. P. 23(c). The Special Master recognizes that these concerns squarely apply here to a class comprised of institutions and individuals (many of whom are retirees, and perhaps elderly).

Customer Class counsel is still too high. The Special Master does not hold this belief, but it is certainly possible that some class members may believe this.

[17] Because a complete list of email addresses for all class members is not available, email transmission would not be the most appropriate method for notifying the class of the February 27 Order.

Because email addresses are not uniformly available for each class member, the most effective means for fully informing the class and ensuring access to the information provided by the notice is by sending hard copy notices mailed directly to each individual and institutional member. Included in the electronic and hard copy notice will be both a summary of the Court's findings in its February 27 Order (included in the Proposed Notice, attached as Exhibit A) and a link to the class website that includes a complete copy of the Memorandum and Order free of charge. Those class members that want to review a hard copy of the Court's February 27 Order may request a copy at no cost. Labaton, in conjunction with AB Data, will coordinate these efforts and ensure requests are carried out quickly and to the satisfaction of each class member.

A tiered plan with payments into a third-party escrow account is appropriate to redistribute funds from the Customer Class Counsel

The February 27 Order directs the Customer Class counsel to repay over $17.2 million with $14.3 million remitted to the class. This payment will be in addition to the transfer to the RICs of the remaining $125 million currently being held by Labaton, which may proceed independent or and prior to, Customer Class Counsel making further payments.[18] The Special Master recommends that Customer Class counsel each pay their proportionate share of the redistributed funds into an escrow account managed by a third party manager in accordance with the scheduling order attached as Exhibit B. The Special Master will nominate a third-party manager, subject to the Court's approval, to safeguard the funds. The manager, in conjunction with the Court and its subsequent orders, will coordinate with AB Data and Labaton as needed to redistribute those monies consistent with the Court's February 27 Order.

After consulting with Customer Class counsel and learning of the strain that the current economic crisis is placing on the firms, and the substantial size of the payment to be made by

[18] As noted previously, the RICs received $93.7 million at a previous date. *See* FN 10.

Customer Class Counsel, the Special Master believes it is reasonable to allow the law firms to satisfy their full obligation through two payments paid over several months (though not to exceed one year). It is important to point out that a two-tiered payment will not prejudice the class. First, class members will promptly receive the remainder of the original settlement proceeds no later than July 1, 2020. Second, the proposed Scheduling Order prioritizes the class's right to recovery by awarding the class the majority of the first payment made by Customer Class counsel, or $7,192,413.59, in September 2020. Under this plan, ERISA counsel will receive 50% of the $2.8 million, approximately $1.4 million, in reallocated funds it is due in the first distribution. Any remaining obligations will be satisfied by a second payment and paid out in February 2021 that distributes the balance of the reallocated funds that is feasible for reallocation.[19] Under this payment plan, the class will not be prejudiced by any delay. Between now and the first payment in July, Labaton will work diligently with AB Data to gather any outstanding information necessary to remit payment in accordance with the proposed September and March payment dates. Because the payment plan affects the class's rights, it is explained in the proposed Notice and class members may object to the two-tiered plan if they wish.

Labaton should remain as lead counsel

The Special Master recognizes that the Court concluded in its February 27 Order that Labaton engaged in certain unethical conduct in this matter. Conscious of the Court's admonitions, raising serious matters that the Special Master also highlighted in his Report, the Special Master nevertheless recommends that Labaton continue in the role of Lead Counsel strictly for the purpose of administering the settlement payment and notice. At this late stage, Labaton is in possession of the most updated class information – including contact information

[19] Any balance that remains because it is not feasible or economical to allocate will be contributed to a certified, not-for-profit serving the public interest approved by the Court.

for class members and self-certifications of Group Trusts identifying ERISA and non-ERISA volume – has already distributed almost $94 million to Registered Investment Companies (with $125 million in balance for further distribution), and, most importantly, has developed the infrastructure for effectuating the notice and settlement through dedicated persons, such as lead of the firm's Settlement Group Nicole Zeiss, and AB Data, Ltd., a professional company with whom Labaton has a long history of working.

Beyond this, the Special Master is satisfied that Labaton has undertaken and implemented substantial reforms to address the conduct identified by the Special Master and the Court. In fact, Labaton has adopted and implemented nearly all of the recommended reforms presented in the Special Master's Report. The Special Master believes that, with these reforms, Labaton is in the best position to reliably implement court orders in this phase. With full transparency in the notice process, the Special Master maintains that delegating these administrative responsibilities to Labaton will bring about an efficient and speedy payment process. Thus, this is in the best interest of the class.

Lieff Cabraser's appeal should not limit the class's recovery

Lieff Cabraser's appeal adds a layer of uncertainty to the payments described above.[20] It is not currently clear whether Lieff Cabraser intends to appeal from the Court's order to repay $17.2 million to the class and ERISA counsel. If the firm succeeds in reducing its financial obligation to pay back the class and/or ERISA counsel, the class's total recovery would be

[20] Lieff Cabraser's Notice of Appeal raises the question whether the Court's February 27 Order was a final judgment under Fed. R. Civ. P. 54. Here, the Order is presumptively final because the court adjudicated the parties' legal rights and ordered them to act. *See Legate v. Maloney,* 334 F.2d 704 (1st Cir. 1964). The Order carefully considered each of the Special Master's findings and, at times, modified those findings or reached different conclusions to decide each issue raised by the parties *de novo*. *Compare Soderstrom v. Kungsholm Baking Co*., 184 F.2d 756 (7th Cir. 1950) (dismissing appeal where court order from which parties appealed, effectively adopting special master's report, was not a final judgment). While the Court resubmitted the matter to the Special Master, it did so only for recommendations on the issues of notice and execution of the order.

reduced by the proportionate amount, and the payment plan described in Exhibit B would then require modification. But regardless of the outcome of an appeal, the filing of an appeal should not impair the class's right to recover. Thus, the Special Master recommends that the Court issue an order requiring Lieff Cabraser to satisfy its obligations as stated in the February 27 Court Order until and unless that order is invalidated. If the appeal results in a reduction to Lieff Cabraser's financial obligation, the Court should order Labaton and Thornton Law Firm to timely reimburse Lieff Cabraser for any overpayment. Under these circumstances, we recommend that Labaton and the Thornton Law Firm share equally in any reimbursement owed to Lieff Cabraser.

Finally, while not central to the issue of reallocation, the Special Master calls the Court's attention to two important items relevant to Lieff Cabraser's appeal: 1) that counsel will need to be appointed to represent the Court in defending the February 27 Order; and 2) that any costs occasioned by the appeal should fall solely on Lieff Cabraser and no other counsel.

Conclusion

On balance, the Special Master's recommendations attempt to reconcile the class's right to receive timely payment to remedy past violations of its rights by State Street in the underlying case with the fairness of compensating ERISA counsel for their efforts toward achieving that result, as well as their significant out-of-pocket expenses in participating in the Special Master's investigation. The recommendations also bear in mind the uncertainty of the economic landscape and the practical and logistical advantages of having Labaton continue to administer its duty to distribute settlement funds in accordance with Court directives. Importantly, under this proposal the class will receive the entirety of the $17 million repayment by March 2021, bringing some finality and relief to the class members after a protracted case.

Dated: April 7, 2020

Respectfully submitted,

SPECIAL MASTER HONORABLE GERALD E. ROSEN (RETIRED),

By his attorneys,

/s/ William F. Sinnott

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CERTIFICATE OF SERVICE

I hereby certify that this foregoing document was filed electronically on April 7, 2020 and thereby delivered by electronic means to all registered participants as identified on the Notice of Electronic Filing ("NEF"). Paper copies were sent to any person identified in the NEF as a non-registered participant.

/s/ William F. Sinnott
William F. Sinnott

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM, et al. v. STATE STREET BANK AND TRUST COMPANY	)	No. 11-cv-10230 MLW
ARNOLD HENRIQUEZ, et al. v. STATE STREET BANK AND TRUST COMPANY, et al.	)	No. 11-cv-12049 MLW
THE ANDOVER COMPANIES EMPLOYEE SAVINGS AND PROFIT SHARING PLAN, et al. v. STATE STREET BANK AND TRUST COMPANY	)	No. 12-cv-11698 MLW

NOTICE OF FURTHER PROCEEDINGS, INCLUDING NEW AND REDUCED ATTORNEYS' FEE AWARD

This notice is being sent to you as a member of the class in the above-captioned cases to inform you of further proceedings, including a new, and reduced, attorneys' fees award, which will result in an increase in the amount of money to be distributed to class members. This notice explains the reason for the new award and how you can access documents filed in these further proceedings, how you can communicate with counsel for class members, and how you can communicate with counsel for the Special Master who has been appointed by Senior United States District Judge Mark L. Wolf (the "Court") to investigate and report on the issues that arose after the Court approved the settlement of this class action on November 2, 2016. As explained below, class members now have an opportunity to be heard concerning the Court's February 27, 2020 Memorandum and Order that modified the Special Master's Report and Recommendation by, among other things, reducing the award of attorneys' fees from nearly $75 million to $60 million. The Court's February 27, 2020 Memorandum and Opinion can be found at http://www.statestreetindirectfxclasssettlement.com/. If you wish to receive a hard copy of this order, it will be sent to you at no cost. Please contact Labaton at 1-877-240-3540, 2020 by _____, 2020.

By way of background, following a hearing on November 2, 2016, the Court originally approved a $300,000,000 settlement of this class action, in which it was alleged that defendant State Street Bank and Trust overcharged its customers in connection with certain foreign exchange transactions. The Court awarded the attorneys for Plaintiffs ("Plaintiffs' Counsel") more than $75,000,000 in attorneys' fees and expenses and made awards of $10,000 to $25,000 to the seven class representatives.

In November 2016, as described in a previous notice to the class dated April 11, 2017, questions were raised concerning the inadvertent double-counting by Labaton Sucharow LLP ("Labaton"), Thornton Law Firm LLP ("Thornton"), and Lieff, Cabraser, Heimann & Bernstein, LLP ("Lieff Cabraser," and collectively "Customer Counsel") of the number of hours worked by certain attorneys on the case, which inflated the "lodestar" the Court had relied upon in awarding attorneys' fees as well as concerns about the hourly rates assigned to certain attorneys on the fee petitions of Customer Counsel; and whether the hours reportedly worked by certain attorneys were actually all worked. (The "lodestar" is the number of hours the attorneys worked multiplied by what Customer Counsel represented to be a reasonable hourly billing rate for each attorney.) On March 6, 2017, the Court appointed Retired United States District Judge Gerald Rosen as a Special Master to investigate and submit a Report and Recommendation addressing, at least: (a) the accuracy and reliability of the representations made by the parties in their requests for awards of attorneys' fees and expenses, including but not limited to whether counsel employed the correct legal standards and had a proper factual basis for what was represented o be the lodestar for each firm; (b) the accuracy and reliability of the representations made in the November 10, 2016 letter from David Goldsmith, Esq. of Labaton Sucharow, LLP to the court [Docket No. 116]; (c) the accuracy and reliability of the representations made by the parties requesting service awards; (d) the reasonableness of the amounts of attorneys' fee, expenses, and service awards previously ordered, and whether any or all of them should be reduced; (e) whether any misconduct occurred in connection with such awards; and, if so, (f) whether it should be sanctioned.

During the Special Master's investigation, questions also arose concerning Labaton's undisclosed payment of approximately $4.1 million of the nearly $75 million total attorneys' fee award to a Texas lawyer who had not worked on the case or entered a court appearance but who had initially connected Labaton with the Arkansas Teacher Retirement System ("ATRS"), the lead plaintiff and Labaton's client in this case long before the filing in this case. The $4.1 million payment was funded collectively by Customer Counsel from their respective shares of the fee award, which derived from class funds.

On May 14, 2018, the Special Master submitted a 377-page Report and Recommendation, together with an executive summary and exhibits, to the Court under seal. The Special Master found that the $75 million fee award was a reasonable starting point, but ultimately recommended that Customer Counsel return approximately $10.7 million to counsel for the other six class representatives to the class and to counsel for the other six class representatives ("ERISA Counsel") and the class. based on the conduct by Customer Counsel referenced above. The Special Master also recommended the imposition of monetary sanctions on one Thornton attorney and his referral to the Massachusetts Board of Bar Overseers. Further, the Special Master found that the $4.1 million payment to the Texas lawyer, and the failure to disclose that payment to the Court, ERISA counsel, or the class, violated certain ethical and procedural rules.

Thereafter, all Customer Counsel objected to some or all of the Special Master's findings and recommendations. On September 18, 2018, the Special Master reported to the Court that Labaton, ERISA Counsel, and he had reached a proposed agreement for the Court's consideration, which resolved various disputed issues as to these firms.

Beginning on June 24, 2019, the Court held three days of further hearings, including argument and testimony, to address all of the objections to the Special Master's Report and Recommendation and his proposed resolution with Labaton and ERISA Counsel. The hearings focused on: (a) whether the initial $75 million fee award was reasonable or whether another amount should be awarded; (b) whether a certain empirical study that had been cited to the Court in support of the requested $75 million fee had been misrepresented; (c) whether Customer Counsel's reported lodestar, in addition to the double-counting, was accurate; (d) whether the above-referenced Thornton attorney intentionally filed a false fee declaration; and (e) issues relating to Labaton's payment to the Texas lawyer.

On February 27, 2020, the Court issued a 159-page Memorandum and Order that significantly modified the Special Master's Report and Recommendation. The Court awarded attorneys' fees totaling $60 million instead of the previous $75 million fee award, reducing the fee as a percentage of the settlement from 25% to 20%, and reallocated the fee among each of Customer Counsel and ERISA Counsel, increasing ERISA Counsel's fee award. The Court reduced the service award to ATRS from $25,000 to $10,000. The Court denied the proposed resolution among the Special Master, Labaton, and ERISA Counsel. The Court also referred the matter to the Massachusetts Board of Overseers. Finally, the Court directed Labaton and Thornton to deposit $250,000 (in addition to the $4,850,000 previously paid by Customer Counsel) to pay past and future reasonable fees and expenses of the Special Master and enable the implementation of the Memorandum and Order. The Court's rulings will shift more than $14 million from Customer Counsel to the class and ERISA Counsel. Under this new allocation, the class will receive $14,384,827.16 additional and ERISA Counsel will receive $2,830,787.84 to compensate ERISA Counsel, who were not involved in the conduct described in the Court's Order, for the costs incurred in the Special Master's investigation. Lieff Cabraser has appealed from the February 27, 2020 Memorandum and Order, but no other Customer Class Counsel or ERISA Counsel has appealed from the Memorandum and Order.

CCAF may be permitted to file an application for attorneys' fees. This matter has not yet been adjudicated. An award may or may not be paid from class funds.

In making its determinations, the Court found, among other things, that various sworn and unsworn written submissions and testimony implicating the double-counting issue contained inaccurate or misleading statements and information. The Court also found that important data from the study was not included in the memorandum filed in support of the fee award that represented that a 25% award was "right in line" with the findings of the author of the empirical study and that the memorandum did not disclose that the author had written that "fee percentage is strongly and inversely associated with settlement size" and that when "a settlement size of $100 million was reached . . . fee percentages plunged well below 20 percent," or the author's finding that in settlements between $250 million and $500 million, the mean fee award was 17.8% and the median award was 19.5%. The Court also found that Labaton's arrangement with and payment

to the Texas lawyer, and the nondisclosure of these matters to ATRS, ERISA Counsel, the other six class representatives, or the Court, violated certain ethical rules and, with respect to the Court, the general duty of candor to the tribunal.

Distribution of Net Class Settlement Fund

To distribute payments to class members as expeditiously and efficiently as possible, Plaintiffs' Counsel will use best efforts to implement a three-step distribution process for the payment of settlement funds. A tiered process will expedite the distribution of known funds to the class, while final fee awards are finalized by the Court as set forth above.

First, it is anticipated that Plaintiffs' Counsel will seek Court authorization of an initial distribution of all existing and remaining funds, totaling about $125 million to class members with "ERISA Recognized Claims" and "Public and Other Recognized Claims" by approximately July 2020.[1] Prior to Plaintiffs' Counsel requesting authorization from the Court, the Claims Administrator will notify class members of their "ERISA Recognized Claim" amounts and their "Public and Other Recognized Claim" amounts, and class members will have an opportunity to review their payment amounts before Court authorization is sought. A reserve fund of 5% will be withheld from distribution in order to satisfy any payment disputes, or other contingencies, that arise after the initial distribution is completed. It may take time for the Court to authorize a distribution and the distribution will commence approximately 30 days after the Court's order becomes Final.

Second, it is anticipated that by approximately September 2020, the Claims Administrator will provide a supplemental distribution to all class members of the first installment of additional funds resulting from the adjusted attorneys' fee awards to Customer Counsel discussed above. Half of ERISA Counsel's additional payments, approximately $1.4 million will be paid to ERISA Counsel at this time. The timing of this supplemental distribution will depend upon whether objections to the Court's Order are received, when objections are heard and determined, whether there is an appeal from the Court's Order contesting the adjusted attorneys' fee award, when that appeal is heard and determined, and whether CCAF files an application for attorneys' fees and the amount of any fees awarded to CCAF.

Third, it is anticipated that by approximately January 2020, the Claims Administrator will provide a final distribution of any unclaimed funds from the prior distributions, unused portions of the reserve, and Customer Counsel's last installment of adjusted attorneys' fee awards to class members along with an equal payment to ERISA Counsel. If there is any further unclaimed balance thereafter, the Claims Administrator will, if feasible and economical given the costs of conducting distributions, redistribute the unclaimed balance to class members that have cashed their checks. Any balance that still remains after redistribution, which is not feasible or economical to reallocate, shall be contributed to one or more nonsectarian, not-for-profit, 501(c)(3) organizations serving the public interest approved by the Court.

[1] Class members are referred to the original Notice of the Settlement for a description of the Court-approved Plan of Allocation and the discussion of ERISA Recognized Claims, Public and Other Recognized Claims, and RIC Recognized Claims, which is available at www.StateStreetIndirectFXClassSettlement.com. Because of certain requirements relating to SSBT's settlement with the SEC, an initial distribution to class members with RIC Recognized Claims has already been conducted. Additional distributions to class members with RIC Recognized Claims will be folded into the distribution process discussed above.

Any Settlement Class Member may object to the Court's Memorandum and Order, including the $60 million, 20% attorneys' fee awarded to Plaintiffs' Counsel. To object, you must mail a written statement to the Court, and the parties listed below, **by no later than _____, 2020** [30/45 days from the date of the notice]:

Clerk of the Court
United States District Court for the District of Massachusetts
John Joseph Moakley United States Courthouse
1 Courthouse Way
Boston, Massachusetts 02210

Special Master	**A.B. Data**
William Sinnott, Esq., Barrett & Singal, P.C. One Beacon Street Suite 1320 Boston, MA 02108-3106	*State Street Indirect FX Trading Class Action* Claims Administrator c/o A.B. Data, Ltd. P.O. Box 173000 Milwaukee, WI 53217

All submissions to the court or the Special Master concerning these proceedings will continue to be made part of the District Court record in these cases and will be available to class members on the settlement website, www.statestreetindirectfxclasssettlement.com, and at www.labaton.com.

Class members may contact Labaton, as Lead Counsel for the class, by calling (888) 219-6877 or emailing settlementquestions@labaton.com. Class members may contact counsel to the Special Master, William Sinnott, Esq., by calling (617) 720-5090 or emailing wsinnott@barrettsingal.com.

PLEASE DO NOT CONTACT THE COURT OR DEFENDANTS REGARDING THIS NOTICE.

Dated: _____, 2020

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE

EXHIBIT B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARKANSAS TEACHER RETIREMENT SYSTEM, on behalf of itself and all others similarly situated,

Plaintiff,

No. 11-cv-10230-MLW

vs.

STATE STREET BANK AND TRUST COMPANY,

Defendant.
_____/

ARNOLD HENRIQUEZ, MICHAEL T. COHN, WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND, and those similarly situated,

Plaintiffs,

No. 11-cv-12049-MLW

vs.

STATE STREET BANK AND TRUST COMPANY,

Defendant.
_____/

THE ANDOVER COMPANIES EMPLOYEE SAVINGS AND PROFIT SHARING PLAN, on behalf of itself, and JAMES PEHOUSHEK-STANGELAND and all others similarly situated,

Plaintiffs,

No. 12-cv-11698-MLW

vs.

STATE STREET BANK AND TRUST COMPANY,

Defendant.
_____/

EXHIBIT B

PROPOSED PAYMENT OF FUNDS PURSUANT TO COURT'S FEBRUARY 27, 2020 ORDER

Reallocation of funds

Date	Purpose/recipient	Total amount paid	Payment by Labaton	Payment by Lieff Cabraser	Payment by Thornton	Funds paid to the class
7/1/20	Final Distribution to Registered Investment Companies (RICs) and ERISA class members	$125 million				All
8/15/20	First Customer Class payment into escrow	$8,607,807.51	$4,793,742.18	$569,728.50	$3,244,336.83	
9/15/20	First Distribution to class and ERISA counsel					$7,192,413.59 to Class $1,415,393.92 to ERISA Counsel
1/15/20	Second Customer Class payment into escrow	$8,607,807.49	$4,793,742.17	$569,728.50	$3,244,336.82	
3/15/21	Second Distribution to class and ERISA counsel					$7,192,413.57 to Class $1,415,393.92 to ERISA Counsel