

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.

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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.

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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.

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**SPECIAL MASTER'S RESPONSE TO THE COURT'S SEPTEMBER 14, 2020 ORDER**

On September 14, 2020, the Court issued an order [Dkt No. 634] directing the Special Master to (1) consult the Claims Administrator (AB Data) to determine whether it has received any objections, and if so, file the objections with the Court; (2) identify the issues to be addressed at the September 22, 2020 hearing and recommend how to address each issue; and (3) submit a proposed order to be entered after the September 22, 2020 hearing.

The Special Master reports that, as of the date of filing, AB Data has not received any written objections to the class notice approved by the Court in its July 10, 2020 Order [Dkt No. 623] and mailed on or about July 24, 2020. AB Data mailed 2,402 notices out to class members. The deadline provided for filing objections was Tuesday, September 8, 2020. Now, nine (9) days after that deadline, AB Data has not received any written objections by mail or other means or communications indicating an intention to do so. The Special Master further reports that, as of the date of filing, he has not received, individually or through his counsel, any objections to the class notice.

At this time, and given the absence of any objections by the class members to the Court-approved notice, the Special Master has identified the following issues that require the Court's attention at the scheduled September 22, 2020 hearing concerning the resolution of this matter:

- Approval of the Special Master's Revised Payment Plan amending the first Proposed Payment Plan, which was approved by the Court in its July 9, 2020 Order [Dkt No. 619]; and
- Addressing the finality of the Court's Order following the September 22, 2020 hearing and Lief Cabraser's right to renew or file an appeal in the future.

Given the absence of any objections by the class members to the fee allocation described in the class notice, the Special Master recommends that the Court proceed with the Proposed

Payment Plan previously submitted by the Special Master on July 7, 2020 and endorsed by the Court on July 9, 2020 to distribute the remaining settlement funds held in the Citibank escrow account and reallocate those funds pursuant to the Court's February 27, 2020 Order.

Accordingly, the Special Master hereby submits a Revised Payment Plan as Exhibit A to this memorandum for the Court's consideration. The Revised Payment Plan restates the previous dates by which the Customer Class Counsel would pay \$16,076,158.00, but has been amended to omit the provided-for conference with the Court forty-five days before the Second Supplemental Distribution of funds to the Class and ERISA counsel to address how to handle Lieff Cabraser's then-pending appeal. On September 3, 2020, the First Circuit dismissed Lieff Cabraser's appeal without prejudice on the grounds that there was a lack of an appealable order. Therefore, Lieff Cabraser will be obligated to pay its share of the reallocated funds to the class and to ERISA Counsel, commensurate with the obligations imposed on the other Customer Class Counsel. The Special Master acknowledges that the First Circuit's denial without prejudice leaves open the possibility that Lieff Cabraser may opt to renew its appeal or file a new appeal with the First Circuit, and that it may act to do so before the payments detailed in the Proposed Payment Plan have been completed. The Master recommends that, should Lieff Cabraser file a future appeal, it will nevertheless make its payments and, if successful, can petition the Court for relief. Such relief should not be re-captured from monies paid to the class members.

In accordance with the Court's Order, a proposed Order is attached hereto as Exhibit B.

Dated: September 17, 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 September 17, 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  
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**REVISED PAYMENT PLAN**

Date	Purpose/recipient	Total amount paid	Payment by Labaton	Payment by Lief Cabraser	Payment by Thornton	Funds paid to the Class
9/1/20	Lead Counsel to file motion for authorization to conduct First Distribution to ERISA and Public & Other Class members; deadline by which Final Distribution to Registered Investment Companies (RICs) shall be conducted	\$128.75 million				All
1/4/21	First Customer Class Counsel payment into escrow	\$8,607,807.51	\$4,793,742.18	\$569,728.50	\$3,244,336.83	
1/15/21	First Supplemental Distribution to Class and ERISA counsel					\$6,622,685.09 to Class \$1,415,393.92 to ERISA Counsel
3/30//21	Second Customer Class Counsel payment into escrow	\$8,607,807.49	\$4,793,742.17	\$569,728.50	\$3,244,336.82	
4/30/21	Second Supplemental Distribution to Class and ERISA counsel					At least \$6,622,685.07 to Class \$1,415,393.92 to ERISA Counsel

# **Exhibit B**



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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**[Proposed] ORDER AUTHORIZING DISTRIBUTION OF FUNDS**

**WOLF, D.J.**

**September \_\_, 2020**

On June 25, 2020, the Court issued a Memorandum and Order directing that, among other items, the Special Master submit an Order regarding the distribution of the remaining settlement funds. The Special Master did so, and submitted to the Court a Proposed Payment Plan which set forth the dates and amounts the Customer Class Counsel must pay back settlement funds, and the dates and amounts the reimbursed funds were to be paid to the Class and ERISA Counsel. On September 14, 2020, the Court issued a Memorandum and Order, that among other items, directed the Special Master to submit another Order to be submitted at the September 22, 2020 hearing. Pursuant to this mandate, it is hereby ORDERED:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation and Agreement of Settlement, dated as of July 26, 2016 [ECF No. 89], the Court-approved Plan of Allocation, or the Declaration of Eric J. Miller on Behalf of A.B. Data, Ltd. in Support of Motion for Authorization to Distribute to Eligible ERISA and Public & Other Class Members, dated September 1, 2020 (the “A.B. Data Declaration”).
2. The administrative recommendations of A.B. Data, Ltd. (“A.B. Data” or “Claims Administrator”), the Court-appointed Claims Administrator, concerning the distribution of the ERISA Settlement Allocation and the Public & Other Settlement Allocation, as set forth in the A.B. Data Declaration and Exhibits 3 to 5 thereto, are hereby APPROVED with respect to the remaining settlement funds.
3. The Proposed Payment Plan, submitted by the Special Master on July 7, 2020 as Attachment 1 to the Master’s Motion for Approval of the Plan For Distribution [ECF No. 618], and approved by this Court in its Memorandum and Order issued on July 9, 2020 [ECF No. 619], will be replaced with the Revised Payment Plan, attached as Exhibit A to the Special Master’s Memorandum filed on September 17, 2020.

4. A.B. Data shall continue to act as the Court-appointed Claims Administrator in accordance with Stipulation and Agreement of Settlement, the Court-approved Plan of Allocation and the Revised Payment Plan.

**IT IS SO ORDERED.**

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HON. MARK L. WOLF  
UNITED STATES DISTRICT JUDGE