

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re URBAN OUTFITTERS, INC. SECURITIES LITIGATION)	Master File No. 2:13-cv-05978-MAK
_____)	
)	<u>CLASS ACTION</u>
This Document Relates To:)	
ALL ACTIONS.)	DECLARATION OF JACK REISE IN SUPPORT OF FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION, AND AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND LEAD PLAINTIFF'S EXPENSES
_____)	

TABLE OF CONTENTS

	Page
I. PRELIMINARY STATEMENT CONCERNING SETTLEMENT	2
II. SUMMARY OF THE LITIGATION	3
A. Factual Allegations Pled in the Amended Complaint.....	4
B. Defendants’ False and Misleading Statements During the Class Period.....	6
C. The Truth Was Revealed	7
III. HISTORY OF THE LITIGATION	8
A. Commencement of the Litigation and Appointment of Lead Plaintiff and Lead Counsel	8
B. Preparation and Filing of the Amended Complaint	8
C. Defendants’ Motion to Dismiss the Amended Complaint and Motion for Partial Judgment on the Pleadings	9
D. Lead Plaintiff’s Motion for Class Certification	9
E. Discovery	10
IV. SETTLEMENT.....	10
A. Settlement Negotiations	10
B. Analysis of the Factors Affecting Settlement	11
1. The Complexity, Expense, and Likely Duration of the Litigation	11
2. The Reaction of the Class to the Settlement	12
3. The Stage of the Proceedings and the Amount of the Discovery Completed.....	12
4. The Risks of Establishing Liability and Damages.....	12
5. The Risks of Maintaining the Class Action Through Trial.....	14
6. The Range of Reasonableness of the Settlement Fund in Light of the Best Possible Recovery.....	14
7. The Range of Reasonableness of the Settlement Fund to a Possible Recovery in Light of All the Attendant Risks of Litigation	15

	Page
C. Mailing and Publication of Notice of Settlement	16
V. THE PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS	17
VI. PLAINTIFF’S COUNSEL’S ATTORNEYS’ FEES AND EXPENSES	21
A. The Size of the Fund Created and the Number of Persons Benefited	22
B. The Presence or Absence of Substantial Objections by Members of the Class to the Settlement Terms and/or the Fees Requested by Counsel	22
C. The Skill and Efficiency of the Attorneys Involved	22
D. The Complexity and Duration of the Litigation	23
E. The Risk of Nonpayment	25
F. The Amount of Time Devoted to the Case by Counsel	25
G. Awards in Similar Cases	26
VII. CONCLUSION.....	28

I, JACK REISE, declare as follows:

1. I am a partner in the firm of Robbins Geller Rudman & Dowd LLP (“Robbins Geller”). My firm was appointed by the Court as Lead Counsel for Lead Plaintiff David A. Schwartz and the proposed Class in the above-captioned action (“Litigation”).¹ I am also a member of the bar of the State of Florida and have been admitted to appear before this Court in the Litigation. I make this declaration in support of Lead Plaintiff’s motion for approval of the settlement of the Litigation (“Settlement”) and the Plan of Allocation, and Lead Plaintiff’s counsel’s motion for an award of attorneys’ fees and expenses and Lead Plaintiff’s expenses.

2. I have been actively involved in the prosecution and resolution of this Litigation, am familiar with its proceedings, and have knowledge of the matters set forth herein based upon my participation in material aspects of the Litigation and my supervision of, or communications with, other lawyers and staff assigned to this matter. This declaration was prepared with the assistance of other lawyers at the firm and reviewed by me before signing. The information contained herein is believed to be accurate based on what I know and what I have been told by others.²

3. The purpose of this declaration is to set forth the basis for and background of the Litigation, its procedural history, and the negotiations that led to the Settlement. This declaration demonstrates why the Settlement is fair, reasonable, and adequate and should be approved by the

¹ The Law Offices of Bernard M. Gross, P.C. was appointed as liaison counsel. In or around October 2015, Deborah Gross moved to the firm of Kaufman, Coren & Ress, P.C. (“Kaufman”), which now serves as liaison counsel (“Liaison Counsel”). Holzer & Holzer, LLC serves as additional counsel. Collectively with Lead Counsel, these firms are referred to herein as “Plaintiff’s Counsel.”

² All capitalized terms used herein, unless otherwise defined, have the same meanings as that set forth in the Stipulation of Settlement (“Stipulation”), dated June 8, 2016. Dkt. No. 74.

Court, why the Plan of Allocation is reasonable, and why the motion for attorneys' fees and expenses and Lead Plaintiff's expenses is reasonable and should be approved by the Court.³

I. PRELIMINARY STATEMENT CONCERNING SETTLEMENT

4. The Settlement, which this Court preliminarily approved in its Order dated June 14, 2016 (Dkt. No. 82) ("Preliminary Settlement Order"), provides for the payment of \$8,500,000.00 in cash for the benefit of the Class to settle all claims asserted in this Litigation and the release of all related claims by Lead Plaintiff and Class Members against Defendants and their affiliated persons and entities.

5. The Settlement is an excellent result and was the product of extensive and diligent litigation efforts and settlement negotiations.

6. As set forth more fully below, Lead Plaintiff might not have achieved such a meaningful recovery for the Class following continued litigation, and even if he ultimately prevailed at trial, any judgment would be inevitably subject to an appeal, and any potential recovery for the Class substantially delayed. Defendants' asserted defenses presented numerous risks concerning Lead Plaintiff's ability to prove liability, as well as the amount of damages suffered by Lead Plaintiff and the Class. In spite of these obstacles, Plaintiff's Counsel obtained a highly favorable Settlement that will result in immediate recovery for the Class, and eliminates the risk of continued litigation under circumstances where a favorable outcome was not assured.

7. The Settlement was reached only after Plaintiff's Counsel: (i) reviewed and analyzed documents filed publicly by Urban Outfitters, Inc. ("Urban" or "Company") with the SEC; (ii) reviewed other publicly available information, including press releases, news articles, and other

³ Also submitted in conjunction with this declaration are: (i) the Memorandum of Law in Support of Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (ii) the Memorandum of Law in Support of Lead Plaintiff's Counsel's Motion for an Award of Attorneys' Fees and Expenses and Lead Plaintiff's Expenses ("Fee Memorandum").

public statements issued by or concerning the Company and certain of the Defendants (“Individual Defendants”), as well as research reports issued by financial analysts concerning the Company; (iii) researched applicable law governing the claims and potential defenses; (iv) retained and supervised investigators who identified potential witnesses, and interviewed numerous former Urban employees and others persons with relevant knowledge; (v) consulted with damages, retail industry and causation experts; (vi) prepared a fact-intensive Amended Class Action Complaint for Violations of the Federal Securities Laws (Dkt. No. 11) (“Amended Complaint”); (vii) opposed Defendants’ motion to dismiss; (viii) opposed Defendants’ motion for partial judgment on the pleadings; (ix) successfully certified the Class over Defendants’ opposition; (x) engaged in written discovery and analyzed over 99,000 pages of produced documents; (xi) deposed Urban’s corporate designee and defended the deposition of Lead Plaintiff; and (xii) went through the mediation process, which included engaging the services of a mediator, preparing detailed mediation statements, and participating in a full day mediation session, which culminated in the Settlement.

8. The Settling Parties reached an agreement to settle this Litigation for a cash payment of \$8,500,000.00.

9. Accordingly, it is respectfully submitted that the Settlement and Plan of Allocation should be approved as fair, reasonable, and adequate, Plaintiff’s Counsel should be awarded 30% of the Settlement Fund and payment of their litigation expenses, and Lead Plaintiff should be compensated for his time representing the Class.

II. SUMMARY OF THE LITIGATION

10. This is a federal securities class action against Urban and certain of its officers and directors, brought by Lead Plaintiff under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 promulgated thereunder on behalf of Lead Plaintiff and all persons or entities who, between March 12, 2013 and September 9, 2013, inclusive (“Class Period”),

purchased or otherwise acquired Urban common stock and held such stock until at least September 9, 2013 (“Class”). Excluded from the Class are Urban, its officers and directors at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns or any entity in which Urban or an Individual Defendant has a controlling interest.

11. Lead Plaintiff alleges that during the Class Period, Defendants engaged in a fraudulent scheme to misrepresent the financial performance of the Company’s flagship Urban brand in order to influence the value of Urban stock. Shareholders who purchased Urban stock during the Class Period at artificially inflated prices lost millions of dollars when the market belatedly learned the truth about the Urban brand’s downward trend. The relevant allegations in this Litigation are summarized below and more fully set forth in the Amended Complaint.

A. Factual Allegations Pled in the Amended Complaint

12. Urban markets specialty fashion apparel, accessories, and home goods under the umbrella of five different brands.⁴ ¶¶27, 31. The Company’s namesake brand, Urban, is its largest brand and operates more than 200 stores worldwide. ¶¶30-31, 51. The Company reports its business in two segments: retail and wholesale. ¶28. The retail segment accounted for approximately 95% of the Company’s fiscal 2013 consolidated net sales, with the remaining 5% from the wholesale segment. *Id.* The Urban brand’s stores contributed 71% of the Company’s retail segment fiscal 2013 sales. *Id.* Maintaining sales growth within the Urban brand was thus critical to the Company’s success.

13. Urban achieved record sales of \$2.79 billion in fiscal 2013,⁵ a 13% increase over fiscal 2012 sales. ¶37. Of the \$321 million gain in net sales, \$305 million was attributed to the retail segment, and \$16 million stemmed from the Company’s wholesale operations. *Id.* At the same

⁴ Citations to “¶__” refer to paragraphs in the Amended Complaint.

⁵ Defendants’ 2014 fiscal calendar ran from February 1, 2013 through January 31, 2014.

time, the Company's comparable retail segment⁶ net sales grew by 7%. ¶38. In each of the five quarters leading up to the Class Period, the Company achieved steadily accelerating retail sales growth. ¶43. Defendants attributed this success to the Company's strong management and well-executed product assortment across its three primary brands.⁷ ¶44.

14. The rest of the general teen retail market, including Urban's prime competitors, fizzled during the 2012 holiday season and fared no better in the first half of 2013. ¶55. Analysts cited a confluence of economic and environmental factors making for a "very challenging" teen retail market during this time. ¶56. Beyond those factors, teen retailers' product assortments were generally missing the mark in attracting and satisfying their target audience, causing comparable sales to shrink across the industry during the Class Period. ¶57. At Urban, on the other hand, Defendants' false statements caused analysts universally to praise the Company's continued success during the 2012 holiday season and into the first two quarters of 2013. ¶¶45, 60-64.

15. Defendants, however, knew that perception was not reality with its Urban brand. ¶¶66-75. Defendants were aware that growth in the Urban brand had slowed and became a drag on the Company, and they were actively attempting to reverse the downward trend. *Id.* By September 2013, Defendants could no longer pretend the Urban brand had escaped the pressures facing the teen retail market generally. ¶¶147-154. When investors learned on September 9, 2013 that third quarter comparable sales growth for the Company was tracking only "mid single-digit positive," blame was

⁶ Comparable retail segment sales are the sum of Urban's comparable store sales plus comparable direct-to-consumer (*e.g.*, catalog and website) sales. To be considered "comparable," a store or direct-to-consumer channel must have been open and operational for at least one full fiscal year, although a store that was materially expanded or remodeled within that year (or otherwise not operating at its full capacity) would not qualify. Sales from stores and direct-to-consumer channels that do not fall within the foregoing definition are considered to be "non-comparable," as are the effects of foreign currency translation. ¶38.

⁷ Together with the Urban brand, the Anthropologie and Free People brands collectively represented about 98% of Urban's fiscal year 2013 sales. ¶2.

immediately placed on the Urban brand, and the price of Urban stock fell more than 10%. ¶¶6, 77, 86. The culprit, as Defendant Conforti later revealed, was poor execution and an across-the-board miss with product assortment at the Urban brand. ¶¶147-153.

B. Defendants' False and Misleading Statements During the Class Period

16. Throughout the Class Period, Defendants misrepresented and concealed information regarding the Company's failed product assortment and resulting decline in sales growth at the Urban brand stores. ¶155. Although Defendants knew about the Urban brand's fashion misses and declining sales during the first half of 2013, they led investors to believe the Urban brand had strong merchandising and product assortment that was overall different and better than its competition. ¶¶87-146. In fact, the Company presented a public image of being above the industry's problems while its competitors' same store sales growth plummeted. ¶¶54-58.

17. Specifically, Defendants conveyed a false impression that the Company was experiencing continued growth at the Urban brand as it had in previous quarters. *See, e.g.*, ¶94 ("Urban is basically on par with what we saw in the fourth quarter."); ¶118 ("In fact, all brands continue to build upon the successes established last year, and each posted record first quarter sales."). At the same time, Defendants falsely downplayed the need to discount products, even touting increased full-priced sales less than two weeks before holding a 30% off Labor Day promotion. *See, e.g.*, ¶95 ("There is no reason to believe that we couldn't see a continued decrease in markdowns."); ¶133 ("The improvements in product led to higher full-price sell-through's and lower merchandise markdowns.").

18. Moreover, Defendants misled investors by claiming the Urban brand's product mix was on the mark. *See, e.g.*, ¶98 ("I like [the] way the trends that we see in the market fashion-wise marry with the stories that we are telling at point of sale."); ¶103 ("Both Urban Outfitters and Anthropologie will tell you that they . . . are on-target now."); ¶135 ("I think we had a number of

situations where our product offering was, I would say, much improved over the prior year, and I think that that was the primary driver of the comp sales.”). Despite a challenging macro environment, Defendants assured investors of the Company’s ability to maintain its success regardless of industry headwinds. *See, e.g.*, ¶94 (“I think, along with everyone else, we had a little bit of a lull in the latter part of January, but from that period on, I think it has been pretty much the same story as what we had in the fourth quarter.”); ¶121 (“We believe that fashion always trumps weather. If we have the right fashion, the customer spends, and if we don’t, the weather may be a factor, but it’s much less relevant.”). In reality, Defendants knew the Urban brand was suffering from poor product assortment and inventory mismanagement, which contributed to declining comparable sales and dramatic price markdowns. ¶¶147-153.

C. The Truth Was Revealed

19. After the market closed on September 9, 2013, the Company announced that third quarter comparable sales growth was tracking only “mid single-digit positive.” ¶147. This was the first time investors learned the truth about the Company’s precipitous deceleration in comparable sales growth driven by poor performance at the Urban brand due to its faltering product assortment. *Id.* As a result, the price of Urban stock immediately plummeted. ¶¶6, 77, 86.

20. Then, on September 11, 2013, Defendant Conforti spoke to investors at a Goldman Sachs Global Retailing Conference and confirmed the state of disarray at the Urban brand. ¶148. He described the Urban brand as “the most challenged out of the three big brands that are in our portfolio.” ¶150. Defendant Conforti explained the Company could “do a better job executing” at the Urban brand and that it was up against “a product assortment challenge” that needed to be “fixed.” ¶¶147, 150, 152.

21. Defendants’ revelations caused the Company’s share price to fall more than 10% in one day, on trading volume of more than eight times the average volume during the preceding ten

days. ¶154. Investors suffered significant losses as a result. *Id.* Meanwhile, Defendants Hayne and Conforti took full advantage of the artificial inflation of the Company's share price during the Class Period by selling 1.3 million shares of common stock for proceeds of more than \$51 million. ¶168.

III. HISTORY OF THE LITIGATION

A. Commencement of the Litigation and Appointment of Lead Plaintiff and Lead Counsel

22. This Litigation commenced on October 11, 2013 with the filing of an initial complaint in the United States District Court for the Eastern District of Pennsylvania alleging violations of federal securities laws. Dkt. No. 1.

23. On January 7, 2014, by order of Judge Restrepo, David A. Schwartz was appointed Lead Plaintiff, Lead Plaintiff's selection of counsel was approved and Robbins Geller was appointed Lead Counsel and the Law Offices of Bernard M. Gross, P.C. was appointed Liaison Counsel. Dkt. No. 9.

B. Preparation and Filing of the Amended Complaint

24. Lead Plaintiff filed the Amended Complaint on March 10, 2014. Dkt. No. 11. The Amended Complaint reflected Plaintiff's Counsel's continued investigation and analysis that included a thorough review and analysis of a substantial volume of publicly available information regarding Urban, including, but not limited to, its SEC filings, press releases, securities analysts' reports, news articles, shareholder communications, and other publicly available information. Plaintiff's Counsel also continued to work with an investigative firm in interviewing potential witnesses, including several former Urban employees and other persons with relevant information. Plaintiff's Counsel also consulted with damages and loss causation experts.

C. Defendants' Motion to Dismiss the Amended Complaint and Motion for Partial Judgment on the Pleadings

25. Defendants moved to dismiss the Amended Complaint on May 9, 2014. Dkt. No. 16. On July 8, 2014, Lead Plaintiff opposed the motion to dismiss. Dkt. No. 18. Defendants filed their reply on August 7, 2014. Dkt. No. 19. On September 19, 2014, Judge Restrepo held oral argument on Defendants' motion to dismiss.

26. On May 4, 2015, the Court issued an Order denying Defendants' motion to dismiss in its entirety. Dkt. No. 31. The Court also issued a Memorandum explaining the decision to deny Defendants' motion to dismiss. Dkt. No. 30.

27. Defendants answered the Amended Complaint on July 17, 2015 (Dkt. No. 40), and on November 16, 2015, Defendants moved for partial judgment on the pleadings in their favor on all claims arising from alleged misstatements occurring after August 6, 2013 (Dkt. No. 49). Lead Plaintiff opposed this motion on December 14, 2015 (Dkt. No. 54), and Defendants filed their reply on December 21, 2015 (Dkt. No. 57).

28. While the briefing was pending, the case was reassigned to Judge C. Darnell Jones, II. On January 22, 2016, Judge Jones issued an Order denying the motion for partial judgment. Dkt. No. 59.

D. Lead Plaintiff's Motion for Class Certification

29. On August 31, 2015, Lead Plaintiff filed his motion to certify the Class. Dkt. No. 41. Defendants filed their opposition to the motion on November 16, 2015. Dkt. No. 48. On December 14, 2015, Lead Plaintiff filed his reply in support of the motion. Dkt. No. 53.

30. While the briefing was pending, the case was reassigned to this Court. On February 25, 2016, the Court heard oral argument on Lead Plaintiff's motion for class certification and on February 29, 2016, Lead Plaintiff's motion for class certification was granted. Dkt. No. 67. Also,

on February 25, 2016, the Court issued a Scheduling Order vacating the prior schedule and setting a trial date of October 13, 2016. Dkt. No. 66.

E. Discovery

31. Beginning in June 2015, following the denial of Defendants' motion to dismiss, the parties engaged in written discovery, including preparation of and responses to document requests and interrogatories, and exchanged documents. Specifically, Lead Plaintiff produced documents requested by Defendants and reviewed over 99,000 pages of documents produced by Defendants.

32. Lead Plaintiff also took the deposition of Defendant Conforti as Urban's corporate designee pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure. Defendants took the deposition of Lead Plaintiff.

IV. SETTLEMENT

A. Settlement Negotiations

33. The Settling Parties engaged the services of Jed Melnick, Esq. of JAMS, a nationally recognized mediator. The parties prepared detailed mediation statements and engaged in a full-day, in-person mediation session with Mr. Melnick on April 15, 2016, during which the parties gave aggressive, detailed, and thoughtful presentations on the perceived strengths and weakness of their respective cases. These efforts culminated with the parties agreeing to settle the Litigation for \$8,500,000.00, subject to the negotiation of the terms of a Stipulation of Settlement and approval by the Court.

34. On June 8, 2016, Lead Plaintiff filed a Notice of Motion and Motion for Preliminary Approval of Class Action Settlement. Dkt. No. 73. The Court granted the Preliminary Settlement Order on June 14, 2016. Dkt. No. 82. A final hearing for approval of the Settlement is currently scheduled for October 31, 2016.

35. For the reasons more fully set forth herein, Plaintiff's Counsel believe this was an excellent result.

B. Analysis of the Factors Affecting Settlement

36. Courts in the Third Circuit must consider the following factors set forth in *Girsh v. Jepsen*, 521 F.2d 153, 156 (3d Cir. 1975) in deciding whether to approve a settlement of a class action under Rule 23(e), including: (1) the complexity, expense, and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of the discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

37. Based on an analysis of these factors, the terms of the Settlement and Plan of Allocation before the Court are fair, reasonable, and adequate, and should be approved.

1. The Complexity, Expense, and Likely Duration of the Litigation

38. The first factor, the complexity, expense, and likely duration of the litigation, supports this Settlement. Securities class actions are extremely complex, time-consuming, and expensive. As discussed herein, this case presented several complicated factual and legal issues. Further litigation would result in substantial resources being expended to proceed through the completion of discovery, including expert discovery, summary judgment, trial, and the post-trial appellate process, without any guarantee of a better resolution for the Class. These expenditures would also serve to deplete any potential recovery at trial. The Settlement avoids these expenditures and provides an immediate recovery for the Class. Therefore, this factor favors the Settlement.

2. The Reaction of the Class to the Settlement

39. The reaction of the Class to the Settlement also favors settlement. As outlined below, notice has already been disseminated to over 27,900 potential Class Members and nominees. To date, no Class Members have objected to the Settlement and only one request for exclusion has been received. Given the lack of any opposition, the reaction of the Class weighs in favor of the Settlement.

3. The Stage of the Proceedings and the Amount of the Discovery Completed

40. The third factor, the stage of the proceedings and the amount of the discovery completed, fully supports the Settlement. Plaintiff's Counsel drafted a detailed Amended Complaint, which was the product of an extensive investigation, and successfully opposed the complex motion to dismiss filed by Defendants. They also reviewed tens of thousands of key documents related to Defendants' scienter and truthfulness of their Class Period statements, with the additional benefit of taking the deposition of Urban's corporate designee. The parties also fully litigated Lead Plaintiff's motion for class certification. In addition, Plaintiff's Counsel consulted with economic experts to assist in the evaluation of Lead Plaintiff's claims. Lead Plaintiff submits that this factor provides further support for the Settlement.

4. The Risks of Establishing Liability and Damages

41. The fourth and fifth factors, the risks of establishing liability and damages, also favor the Settlement. While Lead Plaintiff remains confident in his ability to prove his claims and to counter any asserted affirmative defenses, the risks of having the Litigation dismissed at summary judgment, losing at trial or on appeal, when weighed against the immediate benefits of the Settlement, confirm that the Settlement is in the best interest of the Class. Although the Amended Complaint survived Defendants' motion to dismiss, Lead Plaintiff would still face numerous

obstacles in proving falsity, scienter, and loss causation following the completion of fact and expert discovery.

42. Defendants have denied, and continue to deny, that they have committed any act or omission giving rise to any liability or violation of law and they expressly have denied, and continue to deny, each of the claims alleged by Lead Plaintiff in the Litigation. Defendants also have denied, and continue to deny, the allegations that Lead Plaintiff or the Class have suffered any damage, or that Lead Plaintiff or the Class were harmed by the conduct alleged in the Litigation. Defendants have also asserted that evidence developed to date supports their position that they acted properly at all times and that the Litigation is without merit. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

43. More specifically, Defendants have challenged Lead Plaintiff's allegations of falsity by arguing evidence existed that would demonstrate that Urban's downward trends did not arise until shortly before Defendants disclosed them and, therefore, statements about the trends could not have been knowingly false when made. While Lead Plaintiff believes that evidence supports a contrary view, there would certainly be substantial uncertainty regarding whether Lead Plaintiff could establish Defendants' liability.

44. With regard to establishing scienter, Defendants consistently maintained there was no evidence showing that the Individual Defendants had actual knowledge of any ongoing fraudulent scheme and that their insider stock sales did not establish motive and was not indicative of scienter. Lead Plaintiff recognizes that proving Defendants' scienter was not assured.

45. In addition, Defendants contested loss causation and damages by strongly arguing that Lead Plaintiff could not support his theory that Urban used the results of its other brands to mask the performance of the Urban brand, that Urban disclosed results for each brand for each quarter, and that analysts were well aware of these numbers. Defendants also argued Lead Plaintiff

failed to establish a causal link between the alleged final disclosure concerning third quarter comparable net sales and the stock price decline because it was unrelated to net sales in earlier quarters and, therefore, no new information was revealed.

46. Based on these arguments, there is no doubt that Defendants would continue to vigorously contest every element of the securities fraud claims in this Litigation, including loss causation and damages and, had the Litigation continued, these issues would have evolved into a proverbial “battle of the experts,” making the outcome of the Litigation unpredictable and uncertain.

47. Although Lead Plaintiff was confident in the strength of the allegations in the Amended Complaint, there was substantial risk if the Litigation proceeded to trial that the jury could have sided with Defendants on these issues. For these reasons, achieving a substantial settlement at this stage of the Litigation was a meaningful achievement that avoids the considerable expense, delay, and risk of further litigation.

5. The Risks of Maintaining the Class Action Through Trial

48. The sixth factor concerns the risks of maintaining the class action through trial. While the Court granted Lead Plaintiff’s motion for class certification and certified the Class, there was no guarantee that class certification would be maintained throughout trial since courts may exercise their discretion to re-evaluate the appropriateness of class certification any time before a decision on the merits.

6. The Range of Reasonableness of the Settlement Fund in Light of the Best Possible Recovery⁸

49. The eighth factor evaluates the range of reasonableness of the settlement fund in light of the best possible recovery. The Settlement of \$8,500,000.00 reflects roughly 6%-8% of the total

⁸ The seventh factor, the ability of the defendants to withstand a greater judgment, is not relevant in that Urban is currently a financially healthy company and was not anticipated to be subject to financial distress during the remainder of the Litigation.

possible recovery estimated to be in the range of \$107 to \$140 million. This Settlement represents a significantly higher recovery than the average percentage of recovery in cases of this size.

50. Indeed, according to the National Economic Research Associates, Inc. (NERA) 2015 annual review, the median percentage recovery for a securities class action case with investors losses estimated to be between \$100 – \$199 million, was 3.4%. This further substantiates the tremendous recovery for the Class here. *See Recent Trends in Securities Class Action Litigation: 2015 Full-Year Review*, at 33, Figure 29 (NERA Jan. 25, 2016). As such, this factor further supports the Settlement.

7. The Range of Reasonableness of the Settlement Fund to a Possible Recovery in Light of All the Attendant Risks of Litigation

51. The ninth factor, the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation, favors approval of the Settlement when balanced against all risks of continued litigation. Lead Plaintiff faced numerous obstacles in proving both liability and damages and there was no certainty, given Defendants' asserted defenses, that Lead Plaintiff and the Class would prevail on either. Additionally, Defendants would inevitably appeal any substantial verdict and damages award. The entire litigation process could span several more years, delaying any recovery by Class Members and increasing the risk that an intervening change in the law or other unforeseeable changed circumstances could reduce or eliminate a recovery. An appeal of a verdict would also carry the risk of reversal, resulting in either no recovery or, at a minimum, significantly delaying any recovery for the Class. Because of these risks and delays associated with continued litigation and eventually proceeding to trial, there was a risk that any litigated recovery would be less than the recovery achieved in this Settlement. Therefore, Plaintiff's Counsel respectfully submit that the Settlement obtained is eminently fair, reasonable, adequate, and in the best interest of the Class Members.

52. In sum, Plaintiff's Counsel strongly endorse the Settlement. In light of the potential risks of establishing liability and damages, Plaintiff's Counsel and Lead Plaintiff respectfully submit that the Settlement represents an extremely favorable result for the Class under the circumstances. It provides Class Members with a substantial cash benefit now, rather than a potential recovery after several more years of continued litigation – or the possibility of no recovery at all.

C. Mailing and Publication of Notice of Settlement

53. The Court's Preliminary Settlement Order directed Epiq Class Action & Claims Solutions, Inc. ("Claims Administrator") to cause the mailing of the Notice of Proposed Settlement of Class Action ("Notice") and the Proof of Claim and Release form ("Proof of Claim") by First-Class Mail to all Class Members identifiable with reasonable efforts, no later than June 28, 2016.

54. Pursuant to the Court's Preliminary Settlement Order, the Notice and Proof of Claim were mailed to over 27,900 potential Class Members and nominees beginning on June 28, 2016. *See* accompanying Declaration of Stephanie A. Thurin Regarding Notice Dissemination, Publication and Requests for Exclusion Received to Date, ¶¶3-10 ("Thurin Decl."). The Notice apprised the Class Members of their right to and procedure for objecting to the Settlement, the Plan of Allocation, or to counsel's application for attorneys' fees and expenses. The time to file objections will expire on September 16, 2016. At the time of the filing of this declaration, I have been informed that no objections have been raised to any aspect of the Settlement, the Plan of Allocation, or counsel's request for attorneys' fees and expenses and that only one request for exclusion has been received.

55. The Preliminary Settlement Order also directed the Claims Administrator to cause the Summary Notice to be published once in the national edition of *The Wall Street Journal* and once over a national newswire service no later than July 5, 2016. Pursuant to the Preliminary Settlement Order, the Claims Administrator caused the publication of the Summary Notice in *The Wall Street Journal* and over the *PR Newswire* on July 5, 2016. *See* Thurin Decl., ¶11.

V. THE PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS

56. Upon approval by the Court, the Plan of Allocation governs the method by which the Net Settlement Fund will be distributed to Class Members who submit valid, timely Proofs of Claim to the Claims Administrator (“Authorized Claimants”). The Plan of Allocation was fully described in the Notice distributed to the Class Members, and provides for the equitable allocation to those Authorized Claimants who have an overall net loss on all of their transactions in Urban common stock purchased or acquired during the Class Period. No distribution will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

57. For purposes of formulating the Plan of Allocation and determining the amount an Authorized Claimant may recover under it, Plaintiff’s Counsel consulted with economic analysts and it reflects an assessment of the damages that they believe could have been recovered by Class Members had Lead Plaintiff prevailed at trial.

58. To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant’s claim, as defined below. If, however, and as is more likely, the amount in the Net Settlement Fund is not sufficient to permit payment of the total claim of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant’s claim bears to the total of the claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

59. The total of all profits shall be subtracted from the total of all losses from transactions involving Urban common stock purchased or acquired during the Class Period to determine if a Class Member has a claim. Only if a Class Member had a net loss from the Urban common stock purchased or acquired during the Class Period, will such Class Member be eligible to receive a distribution from the Net Settlement Fund.

60. Specifically, the Plan of Allocation provides for the calculation of claims as follows:

For shares of Urban common stock *purchased, or otherwise acquired, on or between March 12, 2013 through September 9, 2013*, the claim per share shall be as follows:

- a) If sold prior to September 10, 2013, the claim per share is zero.
- b) If retained at the end of September 9, 2013 and sold before December 6, 2013, the claim per share shall be the least of: (i) \$4.36 (September 10, 2013 Price Decline), or (ii) the difference between the purchase price and the selling price, or (iii) the difference between the purchase price and the average closing price up to the date of sale as set forth in the table below.
- c) If retained, or sold, on or after December 6, 2013, the claim per share shall be the lesser of: (i) \$4.36 (September 10, 2013 Price Decline), or (ii) the difference between the purchase price and \$37.78.

Date	Closing Price	Average Closing Price
9/10/2013	\$38.35	\$38.35
9/11/2013	\$38.20	\$38.27
9/12/2013	\$38.30	\$38.28
9/13/2013	\$38.38	\$38.31
9/16/2013	\$38.39	\$38.32
9/17/2013	\$38.12	\$38.29
9/18/2013	\$37.97	\$38.24
9/19/2013	\$38.12	\$38.23
9/20/2013	\$38.10	\$38.21
9/23/2013	\$37.43	\$38.14
9/24/2013	\$37.29	\$38.06
9/25/2013	\$36.94	\$37.97
9/26/2013	\$36.98	\$37.89
9/27/2013	\$37.07	\$37.83
9/30/2013	\$36.77	\$37.76

Date	Closing Price	Average Closing Price
10/1/2013	\$36.51	\$37.68
10/2/2013	\$36.92	\$37.64
10/3/2013	\$36.70	\$37.59
10/4/2013	\$36.96	\$37.55
10/7/2013	\$35.66	\$37.46
10/8/2013	\$35.06	\$37.34
10/9/2013	\$35.70	\$37.27
10/10/2013	\$36.46	\$37.23
10/11/2013	\$35.90	\$37.18
10/14/2013	\$36.07	\$37.13
10/15/2013	\$35.89	\$37.09
10/16/2013	\$36.46	\$37.06
10/17/2013	\$36.44	\$37.04
10/18/2013	\$37.01	\$37.04
10/21/2013	\$36.50	\$37.02
10/22/2013	\$36.35	\$37.00
10/23/2013	\$36.45	\$36.98
10/24/2013	\$37.59	\$37.00
10/25/2013	\$37.88	\$37.03
10/28/2013	\$38.00	\$37.05
10/29/2013	\$38.24	\$37.09
10/30/2013	\$38.09	\$37.11
10/31/2013	\$37.88	\$37.13

Date	Closing Price	Average Closing Price
11/1/2013	\$38.59	\$37.17
11/4/2013	\$39.47	\$37.23
11/5/2013	\$38.93	\$37.27
11/6/2013	\$38.76	\$37.31
11/7/2013	\$38.47	\$37.33
11/8/2013	\$39.48	\$37.38
11/11/2013	\$40.02	\$37.44
11/12/2013	\$39.82	\$37.49
11/13/2013	\$39.99	\$37.55
11/14/2013	\$40.00	\$37.60
11/15/2013	\$40.17	\$37.65
11/18/2013	\$39.64	\$37.69
11/19/2013	\$39.31	\$37.72
11/20/2013	\$39.02	\$37.75
11/21/2013	\$38.98	\$37.77
11/22/2013	\$38.44	\$37.78
11/25/2013	\$38.91	\$37.80
11/26/2013	\$38.87	\$37.82
11/27/2013	\$39.07	\$37.84
11/29/2013	\$39.02	\$37.86
12/2/2013	\$37.66	\$37.86
12/3/2013	\$37.24	\$37.85

Date	Closing Price	Average Closing Price
12/4/2013	\$36.63	\$37.83
12/5/2013	\$36.29	\$37.80
12/6/2013	\$35.99	\$37.78

VI. PLAINTIFF'S COUNSEL'S ATTORNEYS' FEES AND EXPENSES

61. Plaintiff's Counsel respectfully request that the Court award 30% of the \$8,500,000.00 Settlement for attorneys' fees. Plaintiff's Counsel believe a \$2,550,000.00 fee in this Litigation is reasonable and appropriate in light of the resources counsel expended in prosecuting the Litigation, and the inherent risk of nonpayment from representing the Class in this Litigation on a contingent basis. Plaintiff's Counsel further request payment of \$223,469.22 in expenses and charges incurred by Plaintiff's Counsel. In addition, the Lead Plaintiff seeks payment for his time and expenses incurred in representing the Class of \$5,000.00. To date, there have been no objections to these requests.

62. The fee percentage sought is consistent with common fund case awards in the Third Circuit and well within the range of, and consistent with, the percentages of the common fund fees awarded to counsel in other securities class actions. Based on the quality of Plaintiff's Counsel's work and the benefit obtained for Class Members in light of the risks discussed above, the requested fee is reasonable.

63. The Third Circuit has held that, in exercising its discretion in awarding fees, district courts should consider "among other things," the following criteria, including: (a) the size of the fund created and the number of persons benefited; (b) the presence or absence of substantial objections by members of the class to the settlement terms and/or the fees requested by counsel; (c) the skill and efficiency of the attorneys involved; (d) the complexity and duration of the litigation; (e) the risk of nonpayment; (f) the amount of time devoted to the case by plaintiffs' counsel; and (g)

the awards in similar cases. *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000).

A. The Size of the Fund Created and the Number of Persons Benefited

64. The first factor, the size of the fund created and the number of persons benefited, supports the fee request. Plaintiff's Counsel have secured a settlement that provides for a substantial and certain cash payment of \$8,500,000.00 for the benefit of the entire Class and represents a significantly larger recovery of damages than the average securities class action recovery in similarly sized cases.

B. The Presence or Absence of Substantial Objections by Members of the Class to the Settlement Terms and/or the Fees Requested by Counsel

65. The second factor is the presence or absence of substantial objections by members of the class to the settlement terms and/or the fees requested by counsel. To date, no objections have been received, which supports the reasonableness of the fee request.

C. The Skill and Efficiency of the Attorneys Involved

66. The third factor, the skill and efficiency of the attorneys involved, also supports the fee request. Plaintiff's Counsel have significant experience in representing investors in securities fraud cases and the undersigned is an experienced securities fraud class action litigation attorney. The representation of the Class in this Litigation required considerable analysis and briefing by the undersigned and his colleagues. Plaintiff's Counsel's substantial experience and advocacy were required during the course of the case, including settlement negotiations in an effort to achieve the best possible settlement and convince Defendants, their insurers, and defense counsel, of the risks they faced should they not settle.

67. Plaintiff's Counsel worked diligently to obtain an excellent result for the Class. From the outset, Plaintiff's Counsel employed considerable resources and spent considerable time researching and investigating facts to support a pleading that could survive a motion to dismiss and

position the Litigation for class certification. Theories of damages were complex and Lead Counsel devoted extensive time and analysis working to formulate a class-wide method of calculating damages.

68. The recovery obtained for the Class is the direct result of the significant efforts of highly skilled and specialized attorneys who possess substantial experience in the prosecution of complex securities class actions. Plaintiff's Counsel are among the most experienced securities class action attorneys in the country. The Settlement represents a substantial recovery for the Class, one that is attributable to the diligence, determination, hard work, and reputation of Plaintiff's Counsel.

69. The quality of opposing counsel is also important in evaluating the quality of Plaintiff's Counsel's work. Defendants were represented by experienced and highly skilled lawyers from Morgan, Lewis & Bockius LLP, a well-respected defense firm. Defense counsel has a reputation for vigorous advocacy in the defense of complex securities cases such as this. The ability of Plaintiff's Counsel to obtain a favorable Settlement in the face of such quality opposition confirms the excellence of Plaintiff's Counsel's representation.

D. The Complexity and Duration of the Litigation

70. The fourth factor, the complexity and duration of the litigation, also supports the fee request. As detailed above, the Litigation involved complex issues of law and fact that presented considerable risk to Lead Plaintiff's case. This case involved litigating complex violations of Sections 10(b) and 20(a) of the Exchange Act. Thus, when Plaintiff's Counsel undertook this representation on a contingent basis there was no assurance that the Litigation would survive a motion to dismiss, motion for summary judgment, trial, and/or any appeals and therefore no assurance Plaintiff's Counsel would recover any payment for their services.

71. From the outset, Plaintiff's Counsel understood that they were embarking on a complex, expensive, risky, and lengthy litigation with no guarantee of ever being compensated for

the substantial investment of time and money the case would require. In undertaking this responsibility, Plaintiff's Counsel were obligated to ensure that sufficient resources were dedicated to the prosecution of the Litigation, and that funds were available to compensate staff and to cover the considerable costs that a case such as this requires. With an average lag time of several years for these cases to conclude, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Plaintiffs' Counsel have received no compensation during the course of the Litigation and have incurred \$223,469.22 in expenses in prosecuting the Litigation for the benefit of the Class.

72. These cases present formidable challenges as there are numerous decisions ruling in favor of defendants at each stage of litigation. Defendants' motion to dismiss and motion for partial judgment raised complex and challenging arguments that required experience and Plaintiff's Counsel expended considerable effort in opposing Defendants' motions. In addition, Plaintiff's Counsel moved for and was successful in obtaining certification of the Class, despite Defendants' efforts to defeat certification. If the case had not settled, Plaintiff's Counsel were fully prepared to pursue this Litigation through the completion of fact discovery, expert discovery, class certification, summary judgment, trial, and appeal. Each of those stages of litigation poses considerable challenges and expense in securities fraud class actions. Proving fraud and analyzing and proving loss causation and damages requires substantial expertise and effort.

73. Moreover, courts have repeatedly recognized that it is in the public interest to have experienced and able counsel enforce the securities laws and regulations pertaining to the duties of officers and directors of public companies. If this important public policy is to be carried out, courts should award fees that adequately compensate plaintiff's counsel, taking into account the risks undertaken in prosecuting a securities class action.

74. Here, Plaintiff's Counsel's persistent efforts in the face of substantial risks and uncertainties have resulted in an excellent immediate recovery for the benefit of the Class. In circumstances such as these, and the very favorable result achieved, the requested fee of \$2,550,000.00 and \$223,469.22 in expenses is reasonable and should be approved.

E. The Risk of Nonpayment

75. The risk of nonpayment, the fifth factor in the fee analysis, was a significant risk in this Litigation. When Plaintiff's Counsel undertook to represent Lead Plaintiff and the Class, it was with the expectation that they would have to devote a significant amount of time and effort in their prosecution and advance large sums in expenses on experts, case related travel, mediation, and discovery. Plaintiff's Counsel undertook this case solely on a contingent fee basis, assuming a substantial risk that the case would yield no recovery and leave us uncompensated. Unlike counsel for Defendants, who are paid an hourly rate and reimbursed for their expenses on a regular basis, Plaintiff's Counsel have not been compensated for any time or expenses since this case began. When Plaintiff's Counsel undertook to represent Lead Plaintiff and the Class in this matter, it was with the knowledge that it would require many hours of hard work against some of the best defense lawyers in the United States with no assurance of ever obtaining any compensation for our efforts. The only way Plaintiff's Counsel would be compensated was to achieve a successful result.

F. The Amount of Time Devoted to the Case by Counsel

76. The sixth factor concerns the amount of time devoted to the case by counsel. Plaintiff's Counsel have worked extremely hard and devoted a significant amount of time and resources in the research, investigation, and prosecution of this Litigation. *See* Declaration of Jack Reise Filed on Behalf of Robbins Geller Rudman & Dowd LLP in Support of Application for Award of Attorneys' Fees and Expenses ("Robbins Geller Declaration"), Declaration of Deborah R. Gross Filed on Behalf of Kaufman, Coren & Ress, P.C. and Law Offices Bernard M. Gross, P.C. in

Support of Application for Award of Attorneys' Fees and Expenses ("Kaufman Declaration"), and the Declaration of Corey D. Holzer Filed on Behalf of Holzer & Holzer, LLC in Support of Application for Award of Attorneys' Fees and Expenses ("Holzer Declaration"), submitted herewith. Included with the Robbins Geller Declaration, Kaufman Declaration, and Holzer Declaration, is a schedule that summarizes the lodestar of each firm, as well as expenses incurred by category after having been reviewed and reduced in the exercise of billing judgment. In particular, the Robbins Geller Declaration, Kaufman Declaration, and Holzer Declaration, and the fee and expense schedules contained within, indicate the amount of time spent on this Litigation by each attorney and professional support staff employed by Plaintiff's Counsel and the lodestar calculations based on their current billing rates. The Declarations were prepared from contemporaneous daily time records regularly prepared and maintained by counsel. The hourly rates for attorneys and professional support staff included in the schedules are the same as the regular current rates counsel would charge for their services in non-contingent matters or that have been submitted to or approved by other courts.

77. Plaintiff's Counsel have expended more than 5,900 hours in the investigation, prosecution, and resolution of the Litigation against Defendants, for a collective lodestar value of \$2,989,308.00.

G. Awards in Similar Cases

78. With respect to the final factor, the consideration of the awards in similar cases, the accompanying Fee Memorandum demonstrates that the requested fee of 30% is supported by fee awards from district courts within the Third Circuit and courts nationwide.

79. Plaintiff's Counsel also request payment of expenses incurred in connection with the prosecution and resolution of this Litigation, in the total amount of \$223,469.22. *See* Robbins Geller Declaration, ¶¶5-6; Kaufman Declaration, ¶¶7-8; Holzer Declaration, ¶¶5-6. The requested expenses

are reflected in the books and records maintained by the respective firms and are an accurate recording of the expenses incurred.

80. Plaintiff's Counsel submit that the expenses are reasonable and were necessary for the successful prosecution of this Litigation. Plaintiff's Counsel were aware that they may not recover any of these expenses unless and until this Litigation was successfully resolved against Defendants. Accordingly, Plaintiff's Counsel took steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of Lead Plaintiff's claims.

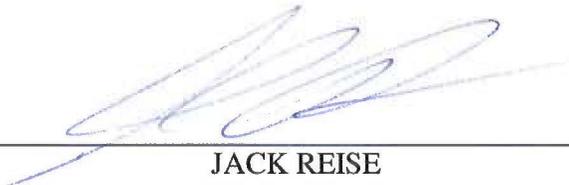
81. In addition, Lead Plaintiff requests an award of \$5,000.00 to compensate him for the time he devoted to representing the Class and assisting in the prosecution of the case. *See* accompanying Declaration of David A. Schwartz in Support of Motion for Final Approval of Class Action Settlement and Award of Attorneys' Fees and Expenses ("Schwartz Decl."), ¶6. Under the PSLRA, the Court may award "reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of a class." *See* 15 U.S.C. §78u-4(a)(4). Reimbursement of such expenses should be allowed because it "encourages participation of plaintiffs in the active supervision of their counsel." *Varljen v. H.J. Meyers & Co.*, No. 97 CIV. 6742 (DLC), 2000 U.S. Dist. LEXIS 16205, at *14 n.2 (S.D.N.Y. Nov. 8, 2000). Indeed, incentive awards are frequently approved by district courts throughout the country.

82. Here, Lead Plaintiff protected the interests of the Class by vigorously prosecuting this Litigation. As set forth in his Declaration, Lead Plaintiff stepped forward to file this case and represent the Class by, among other things, communicating and consulting with counsel to investigate his claims, filing complaints, opposing Defendants' motion to dismiss, producing and reviewing relevant documents, submitting to a deposition, and taking the steps necessary to achieve the Settlement. In doing so, he devoted significant time to his oversight of, and participation in, the Settlement. *See* Schwartz Decl., ¶3.

VII. CONCLUSION

83. In light of the significant recovery to the Class and the substantial risks of this Litigation, as described above and in the accompanying memoranda in support of the Settlement, Plan of Allocation, and fees and expenses, Plaintiff's Counsel respectfully submit that: (i) the Settlement is fair, reasonable, and adequate and should be approved; (ii) the Plan of Allocation represents a fair method for the distribution of the Net Settlement Fund among Class Members and should also be approved; and (iii) the motion for attorneys' fees and expenses, including Lead Plaintiff's expenses, should be granted.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of August, 2016, at Boca Raton, Florida.



JACK REISE

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2016, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 18, 2016.

s/ Ellen Gusikoff Stewart
ELLEN GUSIKOFF STEWART

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Mailing Information for a Case 2:13-cv-05978-MAK SCHWARTZ v. URBAN OUTFITTERS, INC. et al**Electronic Mail Notice List**

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The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)