

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Robin E. Figas,
and all others similarly situated,
Plaintiffs,

v.

Wells Fargo & Company, Employee
Benefit Review Committee, Howard I.
Atkins, Patricia Callahan, Ellen Haude,
Mike Heid, Clyde Ostler, Tim Sloan, John
G. Stumpf, Peter J. Wissinger, and Doe
Defendants 1-20.

Defendants.

Civil File No. 08-CV-4546 (PAM/FLN)

PLAN OF ALLOCATION

The parties settled the lawsuit for a cash payment by *Defendants* to the *Class* in the amount of \$17.5 million, the *Settlement Fund*. This Plan of Allocation describes how the *Net Settlement Proceeds*, that is, the *Settlement Fund* less (1) attorneys' fees, expenses, and costs, (2) the expense of *Class Notice*, and (3) the expenses of *Settlement Administration*, are allocated to *Class Members*.

1. Summary and Assumptions

The Plan of Allocation is based on quarterly balances in the *Wells Funds*. There are 32 quarters in the *Class Period*.

The *Class Period* starts in November of 2001. The first quarter of the *Class Period* is 4Q 2001. For purposes of the *Plan of Allocation*, the first two months of

the *Class Period* are treated as a full quarter because end-of-year *Class Member* balances are available for 2001, but no other data. In addition, treating the first two months of the *Class Period* as a full quarter greatly simplifies and streamlines administration and implementation of the *Plan of Allocation*. Because the year-end balance as of December 31, 2001 is necessarily the same as the quarter-end balance for the fourth quarter of 2001, the *Plan of Allocation* uses the 2001 year-end balance data for the fourth quarter of 2001.

For the year 2002, only year-end balance data is available. Accordingly, the *Plan of Allocation* assumes the same balances for each of the four 2002 quarters.

For the quarters after 2002 through the end of the *Class Period*, actual account balance data does not exist as such except as of September 30, 2009. Accordingly, the claims administrator will calculate quarterly *Class Member* balances using available data elements.

The last quarter will be 3Q 2009. For 3Q 2009 the Plan of Allocation assumes the last 8 days of the class period (October 1-8) are included in 3Q 2009 quarter and does not make separate calculations for the trailing 8 days.

2. *Allocation Method*

Each *Class Member* shall receive the greater of A or B, where A is \$5.00 and B is the *Class Member Distribution* determined under the method described below.

- (a) *Net Settlement Proceeds*: the \$17.5 million *Settlement Fund* less attorneys' fees, expenses, and costs, the expense of *Class Notice*, and the expenses of *Settlement Administration*.
- (b) *Quarterly Class Member Plan Balance*: a *Class Member's* balance, where the balance is the dollar value of the *Class Member's* investment in the Wells Funds at the close of the given quarter.
- (c) *Quarterly Plan Balance*: the sum of all *Quarterly Class Member Plan Balances* during a given quarter.
- (d) *Aggregate Plan Balance*: the sum of all *Quarterly Plan Balances* during the *Class Period*.
- (e) *Quarterly Plan Settlement Allocation*: (1) the *Quarterly Plan Balance* divided by the *Aggregate Plan Balance*, (2) multiplied by the *Net Settlement Proceeds*.
- (f) *Quarterly Class Member Distribution*: (1) the *Quarterly Class Member Balance* for the respective quarter divided by the *Quarterly Plan Balance* for the same quarter, (2) multiplied by the *Quarterly Plan Settlement Allocation*.
- (g) *Class Member Distribution*: the sum of a *Class Member's* *Quarterly Class Member Distributions*.

3. Allocation Administration

After the *Settlement* becomes *Final*, the *Settlement Administrator* will cause *Net Proceeds* to be disbursed to *Class Members* who are *Former Participants* as that term is defined in the *Settlement Agreement* and to the *Plan's* trust for allocation to the *Class Members* who are not *Former Participants* as of the date of the *Settlement Agreement* ("*Current Participants*") in accordance with this *Plan of Allocation*.

In order to be eligible for a distribution from the *Net Proceeds*, a person must be a *Settlement Class Member*. *Current Participants* will receive their settlement payments in their *Plan* accounts. *Former Participants* will receive their settlement payments in the form of a check.

After the *Settlement Administrator* has completed payment calculations for *Class Members*, the *Settlement Administrator* will provide to the *Company* and *Lead Counsel* a *Plan Distribution Allocation File* providing the name, identification number, *Current* or *Former Participant* status, and amount of the *Class Member Distribution* calculated pursuant to the *Allocation Method* for each of the *Class Members*.

After the *Settlement Administrator* has completed payment calculations for *Class Members*, *Lead Counsel* will direct the *Financial Institution* to transfer from the *Settlement Fund* to the *Plan's* trust the aggregate amount of all settlement payments to *Current Participants* (the "*Current Participant Plan Distribution Allocation File*"). The *Company* shall direct the *Recordkeeper* to credit the individual account(s) of each *Current Participant* in an amount equal to that stated on the *Current Participant Plan Distribution Allocation File*. The settlement payment will be invested in accordance with such *Current Participants'* investment elections then on file with the *Plan* recordkeeper. If there is no investment election on file for any *Current Participant*, then such *Current*

Participant shall be deemed to have directed such payment to be invested in the Plan's "Qualified Default Investment Alternative," as defined in 29 C.F.R. § 2550.404c-5.

If a *Current Participant* receives a full distribution of his or her account after the date of the *Settlement Agreement*, the *Company* will direct the *Recordkeeper* to re-open the account for any such participant for the limited purpose of receiving the *Settlement* payment.

For each *Former Participant*, the *Settlement Administrator* will issue a check from the *Settlement Fund* and mail it to the address of such *Former Participant* as determined by the *Settlement Administrator*. The *Plaintiffs* shall direct the *Settlement Administrator* to: (i) calculate and withhold applicable tax withholdings from settlement payments to *Former Participants*; (ii) report such payments and remit such tax withholdings to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to the *Former Participants*; the manner and procedure that the *Settlement Administrator* shall employ in making such distributions, calculations, withholdings, and reports shall be reported to the *Company* at least fourteen (14) days before the *Independent Fiduciary* files its report. The *Company* shall have no responsibility for distributions, calculations, tax withholdings or tax reporting or notifications with respect to *Former Participants*. To the extent that any portion of any settlement

payment is subject to income or other tax, the *Class Member*, including any beneficiary or successor in interest of any *Class Member*, shall be ultimately responsible for such tax.

After completing all aspects of this *Plan of Allocation*, the *Settlement Administrator* shall send to the *Lead Counsel* and *Defendants'* counsel one or more affidavits stating or identifying the name of each *Former Participant* to whom the *Settlement Administrator* made a distribution from the *Net Proceeds*, together with the amount of the distribution, the name of the payee, the date of distribution, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

Any *Net Proceeds* remaining in the *Qualified Settlement Fund* after the *Plan of Allocation* has been fully and completely implemented shall be disbursed to the *Plan's* trust. In no event shall any portion of the *Net Proceeds* be paid to *Defendants* or be used to offset expenses otherwise paid by *Defendants*.