

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge John L. Kane**

Master Docket No. 09-md-02063-JLK-KMT (MDL Docket No. 2063)

**IN RE: OPPENHEIMER ROCHESTER FUNDS GROUP SECURITIES  
LITIGATION**

This document relates to the following Actions:

*In re AMT-Free Municipals Fund*

09-cv-1243-JLK (*Prince*)  
09-cv-1447-JLK (*Connel*)  
09-cv-1510-JLK (*Amato*)  
09-cv-1619-JLK (*Furman*)

*In re AMT-Free New York Municipal Fund*

09-cv-1621-JLK (*Isaac*)  
09-cv-1781-JLK (*Kurz*)

*In re Rochester National Municipal Fund*

09-cv-550-JLK (*Bock*)  
09-cv-706-JLK (*Stokar*)  
09-cv-927-JLK (*Tackmann*)  
09-cv-1042-JLK (*Krim*)  
09-cv-1060-JLK (*Truman*)  
09-cv-1482-JLK (*Laufer*)  
09-cv-1908-JLK (*Lariviere*)

*In re Rochester Fund Municipals*

09-cv-703-JLK (*Begley*)  
09-cv-1479-JLK (*Bernstein*)  
09-cv-1481-JLK (*Mershon*)  
09-cv-1622-JLK (*Stern*)  
09-cv-1478-JLK (*Vladimir*)  
09-cv-1480-JLK (*Weiner*)

*In re New Jersey Municipal Fund*

09-cv-1406-JLK (*Unanue*)  
09-cv-1617-JLK (*Baladi*)  
09-cv-1618-JLK (*Seybold*)  
09-cv-1620-JLK (*Trooskin*)

*In re Pennsylvania Municipal Fund*

09-cv-1483-JLK (*Woods*)  
09-cv-1368-JLK (*Egts*)  
09-cv-1765-JLK (*Wunderly*)

---

**LEAD PLAINTIFFS' REPLY MEMORANDUM IN FURTHER SUPPORT OF  
MOTION FOR FINAL APPROVAL OF PROPOSED CLASS SETTLEMENTS,  
APPROVAL OF PLAN OF ALLOCATION, AND AWARD OF ATTORNEYS'  
FEES AND EXPENSES**

---

## I. INTRODUCTION

Court-appointed Lead Plaintiffs Leonard Klorfine, John Vazquez, Peter Unanue, Victor Sasson, Dharamvir Bhanot, Stuart Krosser, and Carole Krosser (“Lead Plaintiffs”) and Lead Plaintiffs’ Counsel<sup>1</sup> respectfully submit this reply memorandum in further support of approval of the proposed Settlements, the proposed Plan of Allocation, and Lead Plaintiffs’ Counsel’s request for attorneys’ fees and expenses; and in response to one objection lodged with the Court.<sup>2</sup>

The proposed \$89,500,000 Settlement resolving six class actions is fair, reasonable, adequate, and is in the best interests of the Classes. The Settlement proceeds will be divided among the Actions as follows:

<b>Fund Name</b>	<b>Settlement Allocation</b>
Oppenheimer AMT-Free Municipals Fund	\$17,109,000
Oppenheimer AMT-Free New York Municipal Fund	\$4,241,000
Oppenheimer Rochester National Municipal Fund	\$26,850,000
Oppenheimer New Jersey Municipal Fund	\$3,374,000
Oppenheimer Pennsylvania Municipal Fund	\$4,341,000
Rochester Fund Municipals	\$33,585,000
<b>Total for All Six Funds</b>	<b>\$89,500,000<sup>3</sup></b>

---

<sup>1</sup> “Lead Plaintiffs’ Counsel” as used herein refers to Milberg LLP, Cohen Milstein Sellers & Toll PLLC, Berger & Montague, P.C., and The Shuman Law Firm. All terms not defined herein have the same definition as stated in the six Stipulations and Agreements of Settlement, dated March 4, 2014 (collectively, the “Settlement” or “Stipulations”). Dkt. Nos. 492-97.

<sup>2</sup> Three additional objections were filed but were subsequently withdrawn. *See generally* Dkt. Nos. 507-514.

<sup>3</sup> The methodology used to divide the \$89.5 million Settlement among the six Classes, including the retention of independent allocation counsel and a separate mediation on allocation conducted by Judge Layn Phillips (ret.), is discussed in Lead Counsel’s Declaration (Dkt. No. 506) at ¶¶ 47-52.

These recoveries provide a certain benefit to the Classes, permitting Class Members to partially recover for losses suffered without any further delay, and are well within the range of recoveries courts approve in securities actions. Given the attendant risks of continued litigation and uncertainty of achieving a better result, the global Settlement is reasonable and warrants approval.

Similarly, the Classes' response to the Settlement, Plan of Allocation, and Lead Plaintiffs' Counsel's fee and expense request has been overwhelmingly positive. Despite a two-month campaign informing Class Members of their right to object to the Settlement, the vast majority of Class Members –more than 99.9%– have not opposed or requested exclusion from the Settlement. Out of the over 630,000 potential Class Members who received individually mailed notice, only one Class Member has an objection pending before this Court (primarily seeking a longer class period), and less than 40 Class members requested exclusion from the Settlement. Notably, *not a single Class Member* has objected to the amount of fees requested by Lead Plaintiffs' Counsel or to reimbursement of the requested expenses.

This reaction constitutes additional evidence supporting the fairness and reasonableness of the proposed Settlements, the proposed Plan of Allocation, and Lead Plaintiffs' Counsel's fee application seeking 30% of the Settlement Fund. Lead Plaintiffs' Counsel undertook the representation of Lead Plaintiffs and the six Classes on a contingent-fee basis, and no payment has been made for the services rendered or for the

substantial litigation expenses incurred by Lead Plaintiffs' Counsel. Courts in this Circuit have found that attorneys' fees equating to 30% of the settlement amount are appropriate and consistent with the customary range of fee awards granted for complex securities class actions. Moreover, the requested fees are fair and reasonable compared to the litigation risks Lead Plaintiffs' Counsel faced in pursuing this litigation, the substantial amounts of time and money required to coordinate and manage the Actions, and the excellent results achieved for the Classes.

For all the reasons discussed herein and in (1) Lead Plaintiffs' Motion for Final Approval of Proposed Class Settlements and Approval of Plan of Allocation ("Opening Brief") (Dkt. No. 504) and (2) Lead Plaintiffs' Counsel's Motion for Award of Attorneys' Fees and Expenses and Reimbursement of Lead Plaintiffs' Expenses ("Fee Brief") (Dkt. No. 505), the proposed Settlement is fair, reasonable, and adequate to the Classes and merits the Court's approval, as do the Plan of Allocation and Lead Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of expenses.

## II. ARGUMENT

### A. **The Nearly Unanimous Support of Class Members Demonstrates Overwhelming Class Support for the Settlements, Request for Attorneys' Fees, and Plan of Allocation**

In the Tenth Circuit, the reaction of the class members to a proposed settlement is one of the factors taken into consideration in determining whether a settlement is fair, reasonable, and adequate. *See, e.g., In re New Mexico Natural Gas Antitrust Litig.*, 607

F. Supp. 1491, 1504 (D. Colo. 1984). Here, the Settlement has the full support of all six Lead Plaintiffs and only one objection is pending before the Court,<sup>4</sup> evidencing the overwhelming class support for the Settlements, request for attorneys' fees and expenses, and Plan of Allocation. *See also Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 119 (2d Cir. 2005) (“[T]he favorable reaction of the overwhelming majority of class members to the Settlement is perhaps the most significant factor in inquiry.”); *In re Veeco Instruments Inc. Sec. Litig.*, No. 05-01695, 2007 U.S. Dist. LEXIS 85629, at \*22 (S.D.N.Y. Nov. 7, 2007) (“The lack of objections provides effective evidence of the fairness of the Settlement.”); *In re Merrill Lynch & Co., Inc. Research Reports Sec. Litig.*, No. 02 MDL 1484 (JFK), 2007 U.S. Dist. LEXIS 9450, at \*34 (S.D.N.Y. Feb. 1, 2007) (“Here, the minimal number of objections and requests for exclusion militates in favor of approving the settlement as being fair, adequate, and reasonable.”).

The deadline to object to the Settlement was July 2, 2014. Only one objection remains before the Court out of a universe of 639,351 potential Class Members who received individually-mailed notice. *See* Supplemental Declaration of Stephanie Thurin of Claims Administrator Epiq (“Supp. Epiq Decl.”), ¶ 7, annexed hereto as Exhibit 1. No objections have been lodged to the application for attorneys' fees and reimbursement of expenses.

---

<sup>4</sup> Although several objections were lodged, all but one were withdrawn. Robert Abel's letter to the Clerk sought only to withdraw his “request to speak” at the hearing, but Mr. Abel has informed Lead Counsel that his intent was to withdraw his objection.

The fact that only one objection is pending before this Court demonstrates the Classes' support for the Settlements, the Plan of Allocation, and the attorneys' fee and expense application.<sup>5</sup>

**B. The Court Should Overrule the Objection**

Only a single objection is pending before the Court, filed by Ms. Florence Stabin. Dkt. Nos. 507, 510. Although somewhat difficult to apprehend, the basis of Ms. Stabin's objection appears to be that 1) she believes she is entitled to a much larger Recognized Claim than the Claims Administrator has calculated; and 2) she feels her TD Ameritrade broker is at fault for encouraging her to maintain her investments in the Rochester Fund and collecting fees while her money was invested. *Id.*

Ms. Stabin's disappointment in her Recognized Claim (which the Claims Administrator has calculated to total \$230.49) arises from the fact that the vast majority of her purchases in the Rochester Fund were made prior to the beginning of the Rochester Fund's Class Period of February 26, 2006 through October 21, 2008. *See, e.g.*, Dkt. No. 507 at 4 (Schedule D of Ms. Stabin's 2010 Form 1040, showing acquisitions on September 27, 2004 and September 15, 2005); *id.* at 3 (Ms. Stabin's TD Waterhouse account statement, showing Rochester Fund shares held as of December 30, 2005). Not only are these purchases outside the Class Period that was at issue in the Rochester Fund complaint in this litigation, but even were there a viable claim arising from these

---

<sup>5</sup> There are also 31 requests for exclusion of the 639,351 Class Members who received individually-mailed notice. Supp. Epiq Decl. ¶ 18.

purchases, that claim was time-barred by the 1933 Act's three-year statute of repose at the time the first Rochester Fund action was filed on February 25, 2009. Thus, losses from the bulk of Ms. Stabin's purchases are not compensable by the Settlement. Ms. Stabin's holdings did result in a small number of dividend reinvestments, *see* Dkt. No. 510 at 2, which have generated the \$230.49 Recognized Claim as calculated by the Claims Administrator.

Similarly, Ms. Stabin's broker's conduct is not at issue in this litigation. In negotiating the terms of the Settlement, Lead Plaintiffs' Counsel were careful to carve out a release of claims that Class Members may have against their brokers or investment advisors. *See, e.g.*, Stipulations at ¶¶ 1(x), 2(e). Ms. Stabin is free to pursue a claim against her broker, but such a claim is not part of this litigation. Consequently, losses Ms. Stabin might have incurred as a result of her broker's conduct are not compensable by the Settlement.

Respectfully, the Court should overrule Ms. Stabin's objection.

**C. The Settlement Is Fair, Reasonable, Adequate, and Is In the Best Interests of the Classes**

The all-cash \$89,500,000 Settlement Amount resolving six coordinated class action lawsuits is fair and reasonable. As explained in the Opening Brief, the proposed Settlement is in or above the range of what is typically considered fair, reasonable, and adequate. *See* Dkt. No. 504 at 15-17. After taking into consideration Class Members' calculated losses off-set by dividends and Defendants' arguments concerning negative

loss causation, Lead Plaintiffs' Counsel estimate that the Settlement provides a recovery in the range of approximately 4% of Defendants' most generous damages estimate pursuant to Section 11 of the 1933 Act. *See* Dkt. No. 504 at 4; 16-17. This represents a meaningful recovery and falls well within the range of approved securities class action settlement recoveries. *Id.* at 16.

For example, a study by National Economic Research Associates ("NERA") states that in 2013, the median percentage of investor losses recovered in shareholder class action settlements was 2.1%. *Id.* at 16 (citing Dr. Renzo Comolli and Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2013 Full-Year Review*, at 33 (NERA 2013)). This is slightly more than half of what Lead Plaintiffs have achieved here. Indeed, the Settlement compares favorably to the median percentage of investor losses recovered in shareholder class action settlements between 2002 and 2013, which ranged between 2.2% and 3.1% each year. *Id.*

The Opening Brief also demonstrates that the \$89,500,000 Settlement Amount exceeds the national median settlement in 1933 Act cases as well as the median for securities cases in the Tenth Circuit. *Id.* at 17 (citing Laarni Bulan, Ellen Ryan and Laura Simmons, *Securities Class Action Settlements: 2013 Review and Analysis*, at 12 (Cornerstone Research 2013) ("Cornerstone Study")).<sup>6</sup> According to the Cornerstone

---

<sup>6</sup> The median settlement for cases brought under Sections 11 and 12 of the 1933 Act, from the enactment of the Private Securities Litigation Reform Act ("PSLRA") in 1995 through 2013, is \$3.4 million. Cornerstone Study at 12. This is nearly equivalent to the smallest proposed settlement amount outlined here (the recovery to the New Jersey Fund Class of \$3.3 million).



Study, the median recovery from 2004 to 2013 ranges from 1.3% to 3.1% of total damages. *Id.*; Cornerstone Study at 8. In cases that arose during the “credit crisis” and settled in 2013, the median recovery was only 0.7% of estimated damages. Cornerstone Study at 12. These statistics confirm that the Settlement Amount exceeds the median for securities class actions, both in amount and as a percentage of the estimated potential recovery, and provides significant benefit for the Classes, whether viewed globally or individually by each Class.

By any measure, the proposed Settlement Amount is a far superior alternative to the risks of continued litigation, and this may explain why there are no objections to the Settlement Amount. The Actions were extremely risky given the difficulty of successfully concluding class actions brought under Sections 11, 12(a)(2) and 15 of the 1933 Act (15 U.S.C. §§ 77k, 77l and 77o). The Opening Brief extensively discussed the risks inherent and unique to the Actions. *See* Dkt. No. 504 at 10-14. In order to avoid needless repetition, those risks are not repeated again here, except to note the risk that certain defenses could extinguish Lead Plaintiffs’ claims entirely or cause a substantial reduction in the amount of recoverable damages. Many other securities class actions have been prosecuted in the belief that they were meritorious, only to lose on summary judgment, at trial, or on appeal. *Id.* at 10; *see also Wilkerson v. Martin Marietta Corp.*, 171 F.R.D. 273, 285 (D. Colo. 1997) (“the one constant about litigation, based on my

experiences as a trial attorney and now as a judge, is that the ultimate jury result is uncertain, unknown and unpredictable”).

Courts recognize that the opinion of experienced and informed counsel supporting settlement is entitled to considerable weight. *See Alvarado Partners v. Mehta*, 723 F. Supp. 540, 548 (D. Colo. 1989) (the “views and experience of counsel are legitimate factors to consider”); Manual for Complex Litigation (Fourth) § 21.633 at 321-22. Prior to reaching the Settlement, Lead Plaintiffs’ Counsel undertook a diligent and thorough investigation of the legal and factual issues posed by this litigation, reviewed and analyzed approximately three million pages of documents during discovery, and obtained the benefit of two experts with extensive relevant experience. *See also* Dkt. No. 505 at 14-15. Accordingly, Lead Plaintiffs’ Counsel had a thorough understanding of the strengths and weaknesses of the case when the Settlement was reached. Based on this familiarity with the case and extensive experience litigating securities class actions, Lead Plaintiffs’ Counsel strongly believe that the Settlement is in the best interests of the Classes as it will provide substantial recoveries to Class Members without any further delay. The value of an immediate recovery here outweighs the risks inherent in future protracted litigation.

**D. The Court Should Approve the Fee and Expense Application as Fair and Reasonable**

Under the common fund doctrine, Lead Plaintiffs’ Counsel are entitled to be compensated for their efforts in obtaining a significant recovery for the benefit of the

Classes. As explained in the Fee Brief, the attorneys' fee request of 30% of the Settlement Fund is consistent with the customary range of fee awards granted within this District and the Tenth Circuit. *See* Dkt. No. 505 at 8-10.

Similarly, the lack of objection to the request for an award of attorneys' fees and expenses is an additional factor supporting Court approval of the fees requested here. *See Anderson v. Merit Energy Co.*, No.07-00916, 2009 U.S. Dist. LEXIS 100681, at \*13 (D. Colo. Oct. 20, 2009) (noting the absence of objections to requested award of up to one-third of the settlement further supports approval of the attorneys' fee request); *Droegemueller v. Petro. Dev. Corp.*, No. 07-1362, 2009 U.S. Dist. LEXIS 123875, at \*12 (D. Colo. Apr. 07, 2009) (same); *see also In re Prudential Sec. Inc. Ltd. P'ship Litig.*, 985 F. Supp. 410, 416 (S.D.N.Y. 1997) (in "determining the reasonableness of a requested fee, numerous courts have recognized that 'the lack of objection[s] from members of the class is one of the most important reasons'" (citation omitted); *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005) ("The class's reaction to the fee request supports approval of the requested fees.").

In short, the universally positive Class reaction to the fee request strongly favors final approval of Lead Plaintiffs' Counsel's request for an award of attorneys' fees and expenses, and nothing indicates that the request is unfair or unreasonable under the law.

### **III. CONCLUSION**

For the reasons stated herein and in Lead Plaintiffs' Opening Brief and Lead Plaintiffs' Counsel's Fee Brief, the proposed Settlements merit final approval by this Court, the proposed Plan of Allocation should be approved, and Lead Plaintiffs' Counsel's request for attorneys' fees and expenses should be granted.

Dated: July 24, 2014

Respectfully submitted,

s/ Kip B. Shuman

Kip B. Shuman  
Rusty E. Glenn  
**THE SHUMAN LAW FIRM**  
885 Arapahoe Avenue  
Boulder, CO 80302  
Telephone: (303) 861-3003  
Fax: (303) 484-4886  
kip@shumanlawfirm.com  
rusty@shumanlawfirm.com

*Liaison Counsel*

Sanford P. Dumain  
Roland W. Riggs  
**MILBERG LLP**  
One Pennsylvania Plaza  
48th Floor  
New York, NY 10119  
Telephone: (212) 594-5300  
Fax: (212) 868-1229  
sdumain@milberg.com  
rriggs@milberg.com

*Attorneys for Lead Plaintiff John Vazquez in the AMT-Free New York Fund cases, Lead Plaintiff Victor Sasson in the New Jersey Fund cases, Lead Plaintiff Peter Unanue in the Rochester National Fund cases, and Lead Plaintiffs' Counsel for the Class*

Steven J. Toll  
S. Douglas Bunch  
Genevieve Fontan  
**COHEN MILSTEIN SELLERS & TOLL PLLC**  
1100 New York Avenue, NW  
Suite 500 West Tower  
Washington, D.C. 20005  
Telephone: (202) 408-4600  
Fax: (202) 408-4699  
stoll@cohenmilstein.com  
dbunch@cohenmilstein.com  
gfontan@cohenmilstein.com

*Attorneys for Lead Plaintiff Leonard Klorfine in the AMT-Free Fund cases, Lead Plaintiffs Stuart and Carole Krosser in the Rochester Fund cases, and Lead Plaintiffs' Counsel for the Class*

Charles J. Piven  
**BROWER PIVEN**  
A Professional Corporation  
1925 Old Valley Road  
Stevenson, Maryland 21153  
Telephone: (410) 332-0030  
Fax: (410) 685-1300  
piven@browerpiven.com

David A.P. Brower  
475 Park Avenue South, 33rd Fl.

Sherrie R. Savett  
Gary E. Cantor  
Glen L. Abramson  
**BERGER & MONTAGUE, P.C.**  
1622 Locust Street  
Philadelphia, PA 19103  
Telephone: (215) 875-3000  
Fax: (215) 875-4604  
ssavett@bm.net  
gcantor@bm.net

New York, NY 10016  
Telephone: (212) 501-9000  
Fax: (212) 501-0300  
brower@browerpiven.com

*Additional Counsel for Lead Plaintiff John Vazquez in the AMT-Free New York Fund cases and Lead Plaintiff Dharamvir Bhanot in the Pennsylvania Fund cases*

Joseph J. Tabacco, Jr.  
Nicole C. Lavallo  
Matthew D. Pearson  
**BERMAN DEVALERIO**  
425 California Street, Suite 2100  
San Francisco, CA 94104  
Telephone: (415) 433-3200  
Fax: (415) 433-6382  
jtabacco@bermandevalerio.com  
nlavalle@bermandevalerio.com  
mpearson@bermandevalerio.com

*Additional Counsel for Lead Plaintiffs Stuart and Carole Krosser in the Rochester Fund cases*

Gary S. Graifman  
**KANTROWITZ GOLDHAMER & GRAIFMAN, P.C.**  
747 Chestnut Ridge Road  
Chestnut Ridge, New York 10977  
Telephone: (845) 356-2570  
Fax: (845) 356-4335  
ggraifman@kgglaw.com

*Additional Counsel for Lead Plaintiff Victor Sasson in the New Jersey Fund cases*

gabramson@bm.net

*Attorneys for Lead Plaintiff Dharamvir Bhanot and Additional Named Plaintiffs William E. Miles, Jr. and John P. Galganovicz in the Pennsylvania Fund cases and Lead Plaintiffs' Counsel for the Class*

Howard P. Longman  
**STULL, STULL & BRODY LLP**  
6 East 45th Street  
New York, NY 10017  
Telephone: (212) 687-7230  
Fax: (212) 490-2022  
jasondag@ssbny.com

*Additional Counsel for Lead Plaintiff Victor Sasson in the New Jersey Fund cases*

Lawrence L. Klayman  
Jahan K. Manasseh  
**KLAYMAN & TOSKES, P.A.**  
2424 North Federal Highway  
Suite 450  
Boca Raton, FL 33431  
Telephone: (561) 997-9956  
Fax: (561) 361-9178

*Additional Counsel for Lead Plaintiffs Stuart and Carole Krosser in the Rochester Fund cases*

**Certificate of Service**

I hereby certify that the foregoing was filed with this Court on July 24, 2014 through the CM/ECF system and will be sent electronically to all registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent to those indicated as non-registered participants.

s/ Rusty E. Glenn  
Rusty E. Glenn