

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Turnley, et al. vs. Banc of America Investment Services, Inc., et al.
Civil Action No. 1:07-cv-10949-NG

**NOTICE OF CLASS ACTION,
PROPOSED SETTLEMENT, AND SETTLEMENT HEARING**

IF YOU ARE AFRICAN-AMERICAN AND WERE EMPLOYED AS A FINANCIAL ADVISOR OR PREMIER CLIENT MANAGER IN THE PREMIER BANKING & INVESTMENTS DIVISION OF BANC OF AMERICA INVESTMENT SERVICES, INC. OR BANK OF AMERICA, N.A. (“BANK OF AMERICA” OR THE “BANK”) AT ANY TIME FROM APRIL 1, 2003 THROUGH MARCH 24, 2009 (THE “CLASS PERIOD”), A PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

***A federal court has authorized this Notice.
This is not a solicitation from a lawyer.***

Please read this Notice carefully and fully. This Notice describes a proposed settlement and related matters, including the procedures for seeking monies from a Settlement Fund.

This Notice is intended to inform you about the terms of a proposed settlement (the “Settlement”) of a pending legal action and your rights in connection with this Settlement. This Notice describes the steps you must take to be eligible to receive Settlement Fund monies if this Settlement is finally approved by the Court. If you do not wish to be part of the class, this Notice details the steps you must take to be excluded from the class insofar as it seeks monetary relief.

General Overview

- RICHARD TURNLEY III, BARON H.C. FINLAYSON, COLEEN ALECIA HINDS, MARK-ANTHONY BROWN, TIMOTHY JOHNSON II, KHAIRI DWAYNE RAHMAN, RAHMEL HOBBS, and TERRY M. GRAVELY (“Plaintiffs” or “Named Plaintiffs”), former Financial Advisors and Premier Client Managers, on behalf of themselves and all other current and former Bank of America African-American Financial Advisors and Premier Client Managers, have sued the Bank for race and color discrimination. After extensive discussions, Plaintiffs and the Bank have agreed on the terms of a Settlement.
- The Bank denies that it has done anything wrong, and the Court did not make a determination on that issue. However, the Bank has agreed to be bound by the terms of this Settlement.
- The Court has reviewed the Settlement and has given it preliminary approval. Before deciding whether to grant final approval to the Settlement, the Court wishes to inform you of the general terms of the Settlement, what actions you need to take to participate in the monetary provisions of the Settlement, and your rights to opt out of the monetary relief portion of the Settlement or to object to the Settlement, if you would like to do so.
- The Court has allowed the following Class to assert claims for monetary relief and non-monetary relief:

All African-Americans employed as Financial Advisors or Premier Client Managers in the Premier Banking & Investments division of the Bank at any time between April 1, 2003 and March 24, 2009.
- If you fit the above definition, then you are a Class Member. This Notice will explain the terms of the Settlement to be presented to the Court for final approval.

- If the Court grants final approval to the Settlement, the policies and practices that the Bank has agreed to implement and/or continue, known as “Programmatic Relief,” will benefit all African-Americans who are currently employed by the Bank as Financial Advisors or Premier Client Managers, including Class Members who opt-out of the monetary relief portion of the Settlement. It is not possible to opt-out of the Programmatic Relief portion of the Settlement.
- If you decide to participate in the Settlement by making a claim for monetary relief, then you must fill out the attached Claim Form and Release.
- If you decide to opt-out of the monetary relief Class and not receive any monetary relief through this Settlement, or you want to object to the Settlement before the Court, this Notice will describe the procedures to do so. You may not opt-out of the non-monetary relief provisions of the settlement. If you opt out of the monetary relief provisions of the Settlement, you may object to the Settlement only insofar as concerns the non-monetary relief provisions of the Settlement.
- The Court will hold a Settlement Hearing to consider whether the Settlement is fair, reasonable, and adequate, and to decide whether to give final approval to this Settlement. The hearing will be held at 2:30 p.m. on November 18, 2009, in the courtroom of the Honorable Nancy Gertner at the United States District Court for the District of Massachusetts, Courtroom 2, U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210. If the Settlement is granted final approval by the Court after the Settlement Hearing, the Court’s judgment will be final and binding.
- You are not required to appear at the hearing. If you are a Class Member you will be represented by attorneys for the Class at no cost to you. If you decide to opt-out of the monetary relief settlement class, you must submit a request to opt-out in writing, but you do not need to appear at the hearing. If you decide to object to the Settlement, you must submit a written objection. Those who wish to object to the Settlement, may present their objection in writing only, or you may, in addition to a written objection, appear and be heard by the Court, either by yourself or, at your own expense, with an attorney of your choice.
- If you decide to remain a Class Member and to have an opportunity to receive a share of the monetary relief, you must return the attached Claim Form and Release postmarked no later than December 18, 2009.
- If you decide to opt-out and exclude yourself from the monetary relief settlement class, your opt-out request must be received by September 18, 2009.
- If you decide to object to the Settlement, your objection must be received by September 18, 2009.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
Submit a Claim Form	The only way to be eligible to receive money from the Settlement.
Do Nothing	Stay in this lawsuit. Receive no money from the Settlement. Give Up Certain Rights. By doing nothing, you will not receive any money from the Settlement Fund, and you give up any right to pursue claims against the Bank separately about the race and color discrimination claims covered by the Settlement.
Ask to Be Excluded (Opt-Out)	Opt out of the monetary relief settlement class (opt-out). Receive no money from the Settlement Fund. Keep any rights you might have to pursue individual monetary claims against the Bank separately. If you ask to be excluded from the monetary relief settlement class, you will not be eligible to receive any money from the Settlement Fund, but you keep any rights you might have to pursue individual claims for monetary relief against the Bank regarding the legal claims covered by this Settlement.
Object	Write to the Court about why you don’t think the Settlement is fair to the Class. If you opt out, you may object only to the non-monetary relief portion of the Settlement. If you do not opt out, you may object to any portion of the Settlement, whether or not you submit a Claim Form.
Go to the Hearing	Ask to speak in Court about the fairness of the Settlement.

- For additional information, you may visit: www.PBandISettlement.com.

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BASIC INFORMATION

1. Purpose of this Notice

The purpose of this Notice is to inform you about this litigation, the certification of a class (the “Class”), the terms of a proposed settlement (the “Settlement”), and your rights in connection with a hearing to be held before the Court on November 18, 2009, to consider the fairness, reasonableness, and adequacy of the Settlement and related matters. This Notice also describes the steps to be taken by those who wish to be excluded from the monetary portion of the Settlement and, for those who remain Class members, the steps necessary to obtain a share in the distribution of the Settlement Fund in the event the Settlement is approved by the Court.

2. Background: About the Lawsuit

On May 18, 2007, plaintiffs Richard Turnley III, Baron H.C. Finlayson, Coleen Alecia Hinds, Mark-Anthony Brown, and Timothy Johnson II filed a Complaint with the United States District Court for the District of Massachusetts (the “Court”), on behalf of themselves and on behalf of a putative nationwide class of African-American Financial Advisors and Premier Client Managers, asserting claims against the Bank under 42 U.S.C. § 1981, as amended (“§ 1981”), and Massachusetts General Law Chapter 151B (“M.G.L. c.151B”), a Massachusetts statute prohibiting discrimination on the basis of race.

On August 20, 2007, Defendants filed an Answer to the § 1981 claim, a motion to transfer the § 1981 claim, and a motion to dismiss the M.G.L. c.151B claim. Plaintiffs opposed Defendants’ motions and, on November 13, 2007, sought leave to amend the complaint to add a claim on behalf of Khairi Dwayne Rahman and to add a claim under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e), et seq. (“Title VII”). The Court granted plaintiffs’ motion and denied Defendants’ motions as moot. The Amended Complaint was filed on November 29, 2007.

On December 21, 2007, Defendants filed a new Answer to the § 1981 claim, and motions to dismiss the M.G.L. c. 151B claim, to transfer the § 1981 claim, and to dismiss or transfer the Title VII claim. Plaintiffs opposed the motions on January 11, 2008, and on April 7, 2008, sought leave to amend the complaint to add a claim on behalf of Rahmel Hobbs. On July 28, 2008, plaintiffs sought leave to amend the complaint to add a claim on behalf of Terry M. Gravely.

By Order dated September 17, 2008, the Court granted plaintiffs’ motion to amend the complaint and denied Defendants’ motions to dismiss or transfer. Plaintiffs filed the Second Amended Complaint on September 17, 2008.

The Complaint, the Amended Complaint, and the Second Amended Complaint alleged that the Bank discriminates against African-American Financial Advisors and Premier Client Managers with respect to compensation, hiring, promotion, termination, training, access to financial accounts and business and distribution of account assignments. For example, the complaints alleged that the Bank discriminates by partnering African-American Financial Advisors with African-American Premier Client Managers and then steering these minority partnerships to low net-worth sales territories comprised largely of minority client pools.

Defendants deny the allegations in the Complaint, the Amended Complaint and the Second Amended Complaint, and in connection therewith deny any liability under Title VII, § 1981, M.G.L. c.151B, and/or any other federal, state or local laws, and specifically deny that the Bank unlawfully discriminated against Named Plaintiffs or other Class Members on the basis of race or color, and/or that Named Plaintiffs or other Class Members are otherwise entitled to the relief requested or any other relief.

This Settlement was reached after extensive discussion conducted under the supervision of an experienced mediator, Hunter Hughes, Esq. Counsel for the parties are experienced class action lawyers who retained Mr. Hughes for his expertise in mediating many complex class actions, including those involving race discrimination in employment. Mr. Hughes conducted a two-day in-person mediation session between the parties in New York. At all times during this process, counsel bargained vigorously and at arm’s length on behalf of their respective clients.

The parties to this Agreement have conducted a thorough examination and investigation of the facts and law relating to the subject matters set forth in the Second Amended Complaint and the claims set forth therein. Prior to mediation, significant discovery had already taken place. Specifically, Defendants produced substantial statistical data (including compensation, employment, performance, and demographic information) regarding Financial Advisors and Premier Client Managers for the Class Period, and Class Counsel engaged a statistician to review and analyze that data. Defendants also produced two million pages of documents and over two million records of readily available employment-related data, and plaintiffs deposed numerous Bank managers and employees. Plaintiffs responded to and produced documents in response to Defendants' interrogatories and document requests. This information informed counsel regarding the strengths and weaknesses of their respective positions and provided them a full opportunity to assess the litigation risks presented in this case.

Class Counsel and the Bank's counsel recognize the costs and risks of prosecuting this litigation through class certification, summary judgment, trial, and appeal. Class Counsel believes that it is in the interest of all members of the Class to resolve finally and completely the claims of the Class Members against Defendants. Class Counsel believes that the terms of the Settlement Agreement are in the best interests of the Class and are fair, reasonable, and adequate. Defendants wish to bring the litigation to a conclusion on the terms set forth in the Settlement Agreement.

Plaintiffs believe that the claims asserted in this Action have merit and that the evidence developed to date supports those claims. However, Plaintiffs recognize and acknowledge the expenses and length of continued proceedings necessary to prosecute this Action against Defendants through trial and appeals. Plaintiffs have also taken into account the uncertain outcome and the risk of any litigation, especially in complex class actions such as this Action, as well as the difficulties and delays inherent in such Action. Plaintiffs are also mindful of the inherent difficulties of proof under and possible defenses to the discrimination law violations asserted in this Action. Plaintiffs and their counsel believe that the Settlement set forth in this Settlement Agreement confers substantial benefits upon Class Members and is in the best interest of the Class.

Because Plaintiffs brought this action on behalf of a group, or "class" of African-Americans who have similar claims, they filed the case as a "class action," and are referred to as "Named Plaintiffs."

You can read all of the Plaintiffs' claims in the Named Plaintiffs' Second Amended Complaint, which can be found at www.PBandISettlement.com.

The Court has not made and will not make any determination regarding whether or not the Bank discriminated against African-Americans. This Notice should not be regarded as an expression of any opinion by the Court on the merits of any claims or defenses of the parties. No trial has occurred. There has been no finding or determination by the Court that the Bank has violated any law or obligation, or that, in the event that the Settlement does not become effective, a recovery could or could not be made by the Named Plaintiffs or other members of the Class. Because the Named Plaintiffs and the Bank together came to the Court to ask that the Court approve the Settlement that the two sides agreed to, the Court will simply examine the Settlement Agreement to determine whether or not it is fair, adequate and reasonable.

The Settlement resolves all claims of Class Members for race and color discrimination based in whole or in part on allegations that were or could have been included in the Second Amended Complaint under § 1981, Title VII, and M.G.L. c.151B, or any other federal, state or local legal theory for any period up through July 15, 2009. The Settlement also resolves any and all other claims the Named Plaintiffs made or could have made against the Bank for any period up through July 15, 2009.

The Court has reviewed the Settlement and has preliminarily approved it as fair, adequate and reasonable. Before deciding whether to give the Settlement final approval, the Court wishes to inform you of the general terms of the Settlement and of your right to comment on the Settlement, if you so desire, as well as your right to opt-out, or be excluded, from participating in the monetary portion of the Settlement.

3. Class Definition – Determining If You are Part of the Class

You are a member of the Class affected by the Settlement if you fit within this definition:

All African-Americans employed as Financial Advisors or Premier Client Managers in the Premier Banking & Investments division of the Bank at any time between April 1, 2003 and March 24, 2009.

If you received this Notice in a mailing addressed to you, then the Bank's records likely show that you are currently employed, or were previously employed, by the Bank as a Financial Advisor or Premier Client Manager at some time from April 1, 2003 through March 24, 2009. Therefore, you are considered a Class Member. You have legal rights and options that you may exercise before the Court finally approves the Settlement.

Do I Have to Be Part of this Lawsuit?

You may exclude yourself from, or "opt-out" of, the monetary relief settlement class. If you do so, you will not be required to give up any legal rights that you would otherwise have to sue the Bank on your own behalf, and you will not be permitted to share in the monetary portion of the Settlement. Information about how to opt-out is included below. You may not exclude yourself from the non-monetary relief provisions of the Settlement. If the Court approves the Settlement, you will be bound by the non-monetary relief provisions of the Settlement even if you opt-out of the monetary relief settlement class.

4. Summary Of Settlement Terms

What Are the Terms of the Settlement?

The Settlement requires the Bank to establish a Settlement Fund and to implement certain policies and practices within its Premier Banking & Investment (PB&I) division. The Programmatic Relief portions of the Settlement will last for 2 years.

The Settlement Fund

The Bank will pay seven million and two-hundred thousand dollars (\$7,200,000) into a Settlement Fund. The Settlement Fund will be deposited into an interest-bearing account, earning interest for the benefit of the Class, until it is distributed. If the Settlement is approved, Class Counsel will ask the Court to approve payment of Class Counsel's requested attorneys' fees and reimbursement of expenses. Class Counsel will also request that a portion of the Settlement Fund be paid to the Named Plaintiffs for their service as named plaintiffs and for their additional release of non-class claims. The remainder of the Settlement Fund will be distributed to the eligible Named Plaintiffs and Class Members who submit a Claim Form to compensate them for the asserted claims. If a large enough number of Class Members opt out of the Settlement, a portion of the Settlement Fund will be returned to the Bank.

What Does the Bank Have to Do Under the Settlement?

The Bank has agreed to implement and/or continue various policies and practices that are intended to further enhance opportunities for employment, earnings and advancement of African-American Financial Advisors and Premier Client Managers, and to provide a workplace that promotes fairness for all employees.

The areas included in the Programmatic Relief include communications, training, diversity monitoring, and the hiring of an industrial psychologist. It is intended that these policies and practices will benefit African-Americans and increase their earnings potential at the Bank. These benefits are in addition to the seven million and two-hundred thousand dollars (\$7,200,000) in the Settlement Fund.

Under the Settlement, the Bank will make certain revisions to its policies and practices, or perform certain tasks, during the 2-year term of the Settlement Agreement. Such revisions and tasks are summarized as set forth below.

The Bank will do the following:

- Make available to employees within the Bank's PB&I Division the Bank's Non-Discrimination and Anti-Harassment Policy and issue a statement in support of that policy.
- Provide training to certain PB&I employees, including Financial Advisors, Premier Client Managers, and their managers, regarding the Bank's Non-Discrimination and Anti-Harassment Policy.
- Appoint an internal Diversity Monitor to oversee issues relating to diversity and inclusion within the Bank's Premier Banking & Investments Division.
- Appoint an external Industrial Psychologist to review certain Bank policies and procedures from the standpoint of diversity and inclusion, and to make recommendations with respect to those policies and procedures.

For further information, please see www.PBandISettlement.com.

5. Settlement Hearing

The hearing will be held at 2:30 p.m. on November 18, 2009, in the courtroom of the Honorable Nancy Gertner at the United States District Court for the District of Massachusetts, Courtroom 2, U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210. At this hearing, the Court will determine whether the proposed Settlement is fair, reasonable, and adequate and whether it should be approved. In addition, the Court will consider whether to approve the plan of allocation for distributing the net settlement proceeds, as described below. Finally, the Court will also consider whether the motion of the Named Plaintiffs' attorneys, or "Class Counsel," for an award of attorneys' fees and reimbursement of expenses should be approved, and whether service awards should be approved for the Named Plaintiffs.

Do I Have To Come To The Settlement Hearing?

You are not required to appear at the hearing. Attorneys representing the Class will appear at the hearing on behalf of all Class Members at no cost to you. However, if you would like to comment on or object to the Settlement, you may appear and be heard at the Settlement Hearing, either by yourself or, at your own expense, through an attorney of your choice. Information about how to comment on or object to the Settlement is included below. If the Court gives final approval to this Settlement, the Court's judgment will be final and binding on all Class Members except to the extent that a Class Member has opted out of the monetary relief portion of the Settlement.

6. How to Proceed: Your Options

After reviewing the terms of the Settlement set forth in this Notice, you have three options. You must decide at this stage whether you want to (A) remain a Class Member with respect to the monetary relief portion of the Settlement and retain an opportunity to share in the distribution of the Settlement Fund by submitting a Claim Form and Release; or (B) opt-out and exclude yourself from sharing in the monetary relief portion of the Settlement. You may also object to the Settlement at the Settlement Hearing, but if you wish to object to the monetary relief portion of the Settlement, you may not opt out of the monetary relief portion of the Settlement. If you opt-out of the monetary relief portion of the Settlement, you may still object to the non-monetary relief portion of the Settlement.

A. Remain a Class Member

If you do not request to be excluded, you will remain a part of the Class. The Court will hold the Settlement Hearing and you, as a Class Member, will be represented by Class Counsel at no cost to you.

In order to be eligible to receive a share of the Settlement Fund, you must fill out the Claim Form and Release attached to this Notice and return it to the Claims Administrator postmarked by no later than December 18, 2009. The information provided on the Claim Form may be verified for accuracy against the Bank's computerized personnel, payroll, commission, or account data, or documents provided by claimants. If you are a Class Member and you file a timely Claim Form, you may be eligible to obtain money from this Settlement.

Each Class Member, including each Named Plaintiff, who is eligible to receive a monetary award from the Settlement Fund will be required to sign a “release” (which is included as part of the Claim Form) before receiving the settlement award. This release will terminate any race/color discrimination claims (“Released Claims”) you have or could have brought against the Bank, as explained below in Section 7. In the case of the Named Plaintiffs, the Named Plaintiff Release will terminate any and all claims they brought or could have brought against the Bank. Class Members who previously released claims against the Bank shall nevertheless be eligible to receive a monetary award under this Settlement. Notwithstanding the foregoing, Defendants do not intend to, and do not, otherwise waive any releases given by Class Members to the Bank.

Whether or not you submit a Claim Form, unless you opt out, all Released Claims (defined below in Section 7) that you may have against the Bank up through July 15, 2009 will be barred by this Settlement. Unless you opt out of the monetary relief portion of the Settlement, you remain eligible to object to any portion of the Settlement pursuant to Option C below, whether or not you submit a Claim Form. If you opt out of the monetary relief portion of the Settlement, you may object only to the non-monetary relief portion of the Settlement.

B. Opt-Out: How Do I Exclude Myself From The Settlement?

You may request to opt-out, or be excluded, from the monetary relief settlement class. If you opt-out, you will not be eligible for any monetary award as part of this Settlement. Any Class Member who wishes to opt-out must mail a written, signed statement that he or she is opting out of the monetary portion of the Settlement to:

Turnley v Banc of America Claims Administration
c/o Rust Consulting, Inc.
PO Box 1559
Minneapolis, MN 55440-1559
1-866-403-0679

You may not opt-out of the non-monetary relief provisions of the Settlement.

To be effective, this opt-out statement must be postmarked on or before September 18, 2009, and must contain each of the following:

- (a) your name, current address, social security number and telephone number;
- (b) the name and number of this case: *Turnley v. Banc of America Investment Services, Inc.*, Civil Action No. 1:07-cv-10949-NG;
- (c) a statement that you wish to be excluded from the monetary relief provisions of the Settlement.

Please note that Class Members who submit timely and valid requests for exclusion will have no right to object to the monetary portion of the Settlement in court and will no longer be represented by Class Counsel with respect to the monetary portion of the Settlement.

If you choose to opt-out of the monetary relief settlement class, and submit the necessary information to do so, but later decide to re-join the Class, you may rescind your opt-out request. To be effective, such a rescission must be in writing and signed, and must be postmarked on or before November 3, 2009 to the following:

Niki L. Mendoza, Esq.
BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP
12481 High Bluff Drive, Suite 300
San Diego, CA 92130
1-888-924-1888

Or:

Turnley v Banc of America Claims Administration
c/o Rust Consulting, Inc.
PO Box 1559
Minneapolis, MN 55440-1559
1-866-403-0679

C. Object to the Settlement

The Court must assess the overall fairness and reasonableness of the Settlement to the Class. Class Members who have not opted out of the monetary relief portion of the Settlement may object to any portion of the Settlement. If you opt-out of the monetary relief portion of the Settlement, you may not object to the monetary relief portion of the Settlement, but may object to the injunctive relief portion of the Settlement.

In order to speak at the Settlement Hearing, or have your objection to the Settlement considered by the Court, you must submit a written objection to the Settlement prior to the Settlement Hearing. This statement must be signed, and must include the name and number of this case: *Turnley v. Banc of America Investment Services*, Civil Action No.1:07-cv-10949-NG and a detailed description of the basis for the objection. This statement must be filed with the Court, and sent to Class Counsel and counsel for the Bank at the following addresses, via First-Class United States Mail, postage prepaid, postmarked on or before September 18, 2009:

Niki L. Mendoza, Esq.
BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP
12481 High Bluff Drive, Suite 300
San Diego, CA 92130

and

Jeffrey G. Huvelle, Esq.
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

You need not appear at the Settlement Hearing for your written comments or objections to be considered by the Court, but you may appear if you so desire. If you plan to comment on or object to the Settlement in person at the Settlement Hearing, you must file with the Court a written notice of appearance identifying yourself and any attorney, retained at your own expense, who will represent you at the Settlement Hearing, as well as a list of any witnesses you intend to call.

Please note that no one may appear at the Settlement Hearing for the purpose of objecting to the Settlement without first having filed and served his or her objection(s) in writing within the time period described above. Objections raised at the Settlement Hearing will be limited to those previously submitted in writing.

7. Release

If the Court grants final approval of the Settlement, then all Class Members who do not opt out will release the Bank for all claims certified by the Court in the lawsuit. When claims are “released,” that means that a person covered by the release cannot sue the Bank for any of the claims that are covered by the release. Unless you opt-out of the lawsuit, you will be covered by the release, even if you do not submit a Claim Form for money damages.

Class Members who do not timely, validly and irrevocably opt-out of the Class will release all claims, known and unknown, existing through July 15, 2009, under any federal, state or local legal theory, for race and/or color discrimination, including any claims sounding in tort or contract, based in whole or in part on allegations that were or could have been included in the Second Amended Complaint.

As discussed above, the Named Plaintiffs will release additional claims as well.

All Class Members, including Class Members who timely, validly and irrevocably opt out of the Class, will be barred from instituting representative actions against the Bank or from instituting claims for non-monetary relief against the Bank insofar as those claims concern race and/or color discrimination during the Class Period.

8. How Will My Settlement Award Be Calculated?

Class Members, including the Named Plaintiffs, who file a timely Claim Form will have their claim reviewed by the Claims Administrator. Class Members who submit a Claim Form and Release will be eligible to receive monies based on a plan of allocation (“Plan of Allocation”) to be reviewed and approved by the Court.

- A. Plan of Allocation for Total Awards. All Class Members, including the Named Plaintiffs, who submit valid Claim Form (“Authorized Claimants”) will be eligible to receive a monetary award (“Total Award”) based on a Plan of Allocation proposed by Class Counsel in conjunction with its statistics expert and to be approved by the Court. The Court may amend the Plan of Allocation without further notice to the Class. The Plan of Allocation has two components: (1) a minimum “Base Award” based on the employment tenure in number of months during the Class Period that the Claimant was employed by the Bank as a Financial Advisor or Premier Client Manager in the PB&I division; and (2) an Earnings Regression Award component calculated by Class Counsel’s statistics expert and provided to the Claims Administrator, to determine the Claimant’s Allocated Amount. For each Named Plaintiff, any Service Award approved by the Court is not considered in calculating the amount of a Total Award for a Named Plaintiff, and is separate and in addition to the Total Award. All amounts below are “gross,” *i.e.*, before taxes.
1. Employment Tenure Component – Base Awards. Each Class Member who submits a valid Claim Form and who was employed as a Financial Advisor or Premier Client Manager in PB&I for ninety (90) days or less during the Class Period will receive \$1,000.00 as his or her “Base Award.” Each Class Member who submits a valid Claim Form and who was employed as a Financial Advisor or Premier Client Manager in PB&I for over ninety (90) days during the Class Period will receive \$1,500.00 as his or her “Base Award.” Additional amounts, if any, awarded to each Claimant will be determined based on the earnings regression component explained below.
 2. Earnings Regression Component. Class Counsel’s statistics expert will utilize a linear Earnings Regression Analysis to estimate the pay disparity between Class Members and, as appropriate, Caucasian Financial Advisors or Premier Client Managers with similar tenures at the Bank based on compensation data provided by the Bank (the “Allocated Amount”). The Allocated Amount will be calculated as the least-squares solution for the best-fitting weights to be assigned to (1) time since original date of hire, (2) time since most recent date of hire, and (3) date of payroll check. The Allocated Amount shall be no less than \$0 for each Class Member. The Allocated Amount is not intended to be an estimate of the amount that a Class Member might have been able to recover after a trial or an admission by the Bank that any pay disparity, properly calculated, actually existed. Rather, the Allocated Amount is the basis upon which the Earnings Regression Component of the Net Settlement Fund (the “Earnings Regression Award”) will be proportionately allocated among Authorized Claimants. Plaintiffs’ statistics expert has calculated that if the Court approves of the anticipated requests for an award of attorneys’ fees and expenses, as well as the service awards for the Named Plaintiffs, the estimated average recovery for each Class Member who was a Financial Advisor during the Class Period, after deduction for such awards but before taxes, is approximately \$19,000; and the estimated average recovery for each Class Member who was a Premier Client Manager during the Class Period, after deduction for such awards but before taxes, is approximately \$5,000. These numbers are averages only, and are based on the assumption that every Class Member will seek to recover a portion of the Settlement Fund. You may receive more or less than the average amount depending on, for example, how long and when you worked at the Bank, your position, and your income. Plaintiffs’ statistics expert will provide the amount of each Class Member’s Allocated Amount to the Claims Administrator.
- B. Claims Administrator Authority to Determine Total Award Calculation. The Claims Administrator shall calculate a Total Award for each Class Member who submits a valid Claim Form and Release. The Total Award for each Claimant will be the sum of (i) the Claimant’s Base Award, as determined above in paragraph A.1; and (ii) the Claimant’s Earnings Regression Award, as determined above in paragraph A.2, net of any amounts for attorneys’ fees and expenses and other costs or awards approved by the Court.

Are There Tax Consequences For Any Money I Might Get?

Any award you receive from the Settlement Fund will have tax consequences for you. The Claims Administrator will be responsible for withholding, remitting and reporting each Claimant’s share of payroll taxes from the Settlement Fund. The Bank will be responsible to pay for the employer’s share of taxes and costs, including FICA, FUTA, SUTA and Medicare. The Claims Administrator will withhold the employee’s share of taxes and costs, including any applicable FICA, FUTA, SUTA

and/or Medicare, from Claimants' awards and remit those amounts to the appropriate taxing authorities. The parties expect that the Claims Administrator shall allocate 60% of each Claimant's award, including Service Awards, to their claim for compensatory damages and the remaining 40% to their claim for back pay. Class Counsel is not a tax advisor and cannot give you advice on any tax matters. Class Counsel urges you to consult your tax advisor for answers to any questions you may have about the tax implications of any potential award.

9. The Lawyers Representing You And The Class

As a Class Member, you are represented in this litigation by Class Counsel: Steven B. Singer and Niki L. Mendoza of Bernstein Litowitz Berger & Grossmann LLP:

Steven B. Singer
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
1285 Avenue of the Americas
New York, NY 10019
Telephone: (212) 554-1400
Facsimile: (212) 554-1444

Niki L. Mendoza
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
12481 High Bluff Drive, Suite 300
San Diego, CA 92130
Telephone: (888) 924-1888
Facsimile: (858) 793-0323

Unless you elect to exclude yourself from the Settlement, you will continue to be represented by Class Counsel in connection with implementation and monitoring of the Settlement throughout the 2 year duration of the terms of the Settlement at no cost to you. Although it is not necessary, you may, if you wish to do so, retain your own attorney at your own expense.

How Will The Lawyers Be Paid?

In connection with the Settlement, Class Counsel will ask the Court to award it reasonable attorneys' fees and reimbursement of expenses out of the Settlement Fund. If you are a Class Member and receive an award from the Settlement Fund, you will not owe any fees or expenses to the lawyers who have represented you as part of the Class. The attorneys' fees and expenses of Class Counsel, as awarded by the Court, will be paid only from the Settlement Fund and only if and after the Settlement has been approved by the Court.

As is routine in class action cases, Class Counsel will file a motion for an award of attorneys' fees and reimbursement of expenses. In its motion, Class Counsel will request that the Court award it attorneys' fees in the amount of 33 1/3% of the Settlement Fund net of Court-approved reimbursement of expenses, plus interest accruing on all fees from the date on which the Settlement was funded until such fees are disbursed to Class Counsel. That fee is the fee set forth in the retainer agreements which Class Counsel has entered into with each of the Named Plaintiffs. Class Counsel will also request that the Court award Class Counsel reimbursement of expenses, up to \$500,000., plus interest accruing on all expenses from the date on which the Settlement is funded until such expenses are disbursed to Class Counsel.

Costs of providing notice to the Class, and most other claims administration costs, will be paid separately by Defendants, and will not be paid from the \$7.2 million Settlement Fund.

Class Counsel has pursued these claims on behalf of Named Plaintiffs and the Class without receiving any compensation for its services or reimbursement of its out-of-pocket expenses. Class Counsel has undertaken substantial risks in pursuing this matter. It has done so with the understanding that, if it obtained a recovery for the class, it would request that the Court approve an award of its fees and reimbursement of its expenses.

10. Service Payments to Named Plaintiffs

Class Counsel will apply for service payments to the Named Plaintiffs in a total amount of \$200,000 to compensate them for the time and effort they devoted to representing the class in this case, including the time they spent consulting with class counsel about the case. In addition, Named Plaintiffs are releasing claims unrelated to this lawsuit. These payments if approved by the Court will come from the \$7.2 million Settlement Fund.

11. Getting More Information

If you have further questions or are still not sure whether you are included, you can get free help at www.PBandISettlement.com or you can call or write to Class Counsel in this Action at the contact numbers/addresses listed in paragraph 9.

This Notice contains only a summary of the terms of the Settlement, the provisions of the releases and related matters. For further information, the Settlement Agreement (which includes the complete and controlling terms of the Settlement), the Claim Form, and numerous other documents connected with the Settlement are available for review and/or downloading on the web at either: www.PBandISettlement.com, or can be viewed in hard copy in the Office of the Clerk of the United States District Court, District of Massachusetts, 1 Courthouse Way, Boston, Massachusetts. Other orders that the Court may issue from time to time regarding the administration of the Settlement Agreement will be on file with the Court and some will be available on the web at www.PBandISettlement.com.

Again, the important deadlines are:

- **Last Day To Submit A Claim Form: December 18, 2009**
- **Last Day To “Opt Out” Of The Settlement Class: September 18, 2009**
- **Last Day To Object To The Settlement: September 18, 2009**

PLEASE DO NOT CALL OR CONTACT THE COURT, THE OFFICE OF THE CLERK OF COURT,
OR THE BANK WITH QUESTIONS REGARDING THIS NOTICE.

By Order of the United States District Court for the District of Massachusetts.

DATED: August 4, 2009