

## SETTLEMENT AGREEMENT

This settlement agreement (“Agreement”) is entered into between Wells Fargo Investments, LLC (“WFI”) and Wells Fargo Securities, LLC, successor by merger to Wells Fargo Brokerage Services, LLC, and Wells Fargo Institutional Services, LLC (collectively, the “Wells Fargo Institutional Broker-Dealers”), on one side, and the People of the State of California, by and through Attorney General Edmund G. Brown Jr. or his designated representative (“Attorney General”), on the other side (collectively the “Parties”).

### RECITALS

WHEREAS, on April 23, 2009, the Attorney General filed suit, pursuant to California Government Code §§ 12658 and 12660, against WFI and the Wells Fargo Institutional Broker-Dealers alleging violations of the Corporate Securities Law of 1968 (“CSL”) titled *The People of the State of California v. Wells Fargo Investments, LLC, Wells Fargo Brokerage Services, LLC, and Wells Fargo Institutional Services, LLC*, in San Francisco County Superior Court (Case No. CGC 09-487641) (“Action”);

WHEREAS, the Attorney General, WFI and the Wells Fargo Institutional Broker-Dealers are willing to accept the terms of the Agreement to resolve all issues and disputes related to the Action on the terms and conditions set forth below;

WHEREAS, WFI and Wells Fargo Institutional Broker-Dealers, without admitting the allegations in the Action, enter into this Agreement and agree to abide by the terms and conditions set forth below.

## TERMS OF THIS AGREEMENT

In consideration of the mutual terms, covenants and conditions of this Agreement, the Parties hereto agree to settle all disputes and claims between them relating to the Investigation and Action on the following terms and conditions (the “Terms”):

### **I. RELIEF FOR AUCTION RATE SECURITY INVESTORS.**

1. Buybacks From Auction Rate Securities Investors. WFI and the Wells Fargo Institutional Broker-Dealers will provide liquidity to Eligible Investors by buying back Eligible Auction Rate Securities that have failed at auction at least once since February 13, 2008, at par, in the manner described below.

2. Definitions and Buyback Offer.

a. “Auction Rate Securities,” for the purposes of this Agreement, shall mean long-term bonds issued by municipalities, corporations and student loan companies, or perpetual equity instruments issued by closed end mutual funds, with variable interest rates that reset through a bidding process known as a Dutch auction.

b. “Eligible Auction Rate Securities,” for the purposes of this Agreement, shall mean auction rate securities purchased at WFI and the Wells Fargo Institutional Broker-Dealers on or before February 13, 2008, and that have failed at auction at least once since February 13, 2008. Notwithstanding the foregoing definition, Eligible Auction Rate Securities shall not include auction rate securities that were purchased at WFI or entities acquired by Wells Fargo’s parent companies in accounts owned, managed or advised by or through independent registered investment advisers.

c. “Eligible Investors,” for the purposes of this Agreement, shall mean the following:

(1) Natural persons (including their IRA accounts, testamentary trust and estate accounts, custodian UGMA and UTMA accounts, and guardianship accounts) who purchased Eligible Auction Rate Securities;

(2) Charities, endowments, or foundations with Internal Revenue Code Section 501(c)(3) status, or religious corporations or entities that purchased Eligible Auction Rate Securities; and

(3) Trusts, corporate trusts, corporations, employee pension plans/ERISA and Taft Hartley Act plans, educational institutions, incorporated not for profit organizations, limited liability companies, limited partnerships, non public companies, partnerships, personal holding companies, unincorporated associations, governments or quasi government entities which are the beneficial owner of an account, unless the value of the account exceeded \$10 million as of January 31, 2008, or the beneficial owner had disclosed to WFI or Wells Fargo Institutional Broker-Dealers total investable assets in excess of \$10 million.

(4) “Eligible Investors,” for the purposes of this Agreement, shall not include brokers, dealers or banks acting as conduits for their customers. This provision shall not affect the rights of any beneficial owner of an account that otherwise would qualify as an Eligible Investor, as set forth in subparts (1), (2), or (3) of this Paragraph, above.

(5) “Eligible Investors,” for the purposes of this Agreement, shall not include any WFI or Wells Fargo Institutional Broker-Dealers customers

who have entered into a settlement agreement with WFI or Wells Fargo Institutional Broker-Dealers prior to the date of this Agreement, or who has received a final arbitration award against WFI or Wells Fargo Institutional Broker-Dealers prior to the date of this Agreement, with respect to their Eligible Auction Rate Securities holdings at WFI or Wells Fargo Institutional Broker-Dealers.

d. WFI and Wells Fargo Institutional Broker-Dealers shall offer to purchase, at par plus accrued and unpaid dividends/interest, from Eligible Investors their Eligible Auction Rate Securities that have failed at auction at least once since February 13, 2008 (the “Purchase Offer”).

3. Notification and Buyback Procedures.

a. WFI and Wells Fargo Institutional Broker-Dealers shall undertake their best efforts to identify and provide notice to Eligible Investors of the relevant terms of this Agreement by no later than ninety (90) days from the date of this Agreement. Said notice shall explain what Eligible Investors must do to accept, in whole or in part, the Purchase Offer, including how Eligible Investors may accept the Purchase Offer. No later than five business days prior to publication of the Purchase Offer, WFI and Wells Fargo Institutional Broker-Dealers shall provide a copy of the form of the notice to the Attorney General for review and comment, but not for approval as to form. WFI shall also provide written notice of the relevant terms of this Agreement to any subsequently identified Eligible Investors.

b. WFI and Wells Fargo Institutional Broker-Dealers shall keep the Purchase Offer open for sixty (60) days after mailing the notice required by Paragraph 3a, above (“Offer Period”).

c. Eligible Investors may accept the Purchase Offer by notifying WFI and Wells Fargo Institutional Broker-Dealers, as described in the Purchase Offer, at any time before midnight, Eastern Time, on or before the last day of the Offer Period. An acceptance must be received by WFI and Wells Fargo Institutional Broker-Dealers prior to the expiration of the Offer Period to be effective. The buyback will be conducted as follows:

(1) For those Eligible Investors who accept the Purchase Offer within the Offer Period, WFI and Wells Fargo Institutional Broker-Dealers shall purchase their Eligible Auction Rate Securities by no later than five (5) business days following the expiration of the Offer Period (the “Purchase Deadline”).

(2) An Eligible Investor may revoke their acceptance of WFI’s and Wells Fargo Institutional Broker-Dealer’s Purchase Offer at any time up until WFI and Wells Fargo Institutional Broker-Dealers purchase such Eligible Investor's Eligible Auction Rate Securities or provide notice of their intent to purchase such Eligible Auction Rate Securities.

(3) WFI’s and Wells Fargo Institutional Broker-Dealers obligation to those Eligible Investors who custodied their Eligible Auction Rate Securities away from WFI and Wells Fargo Institutional Broker-Dealers as of the date of this Agreement shall be contingent on: (1) WFI and Wells Fargo Institutional Broker-Dealers receiving reasonably satisfactory assurance from the financial institution currently holding the Eligible Investor's Eligible Auction Rate Securities that the bidding rights associated with such Eligible Auction Rate Securities will be transferred to WFI and Wells Fargo Institutional Broker-Dealers; and (2) transfer of the

Eligible Auction Rate Securities back to WFI and Wells Fargo Institutional Broker-Dealers.

(4) WFI and Wells Fargo Institutional Broker-Dealers shall use their best efforts to identify, contact and assist any Eligible Investor who has transferred the Eligible Auction Rate Securities out of WFI's and Wells Fargo Institutional Broker-Dealers custody in returning such Auction Rate Securities to WFI's and Wells Fargo Institutional Broker-Dealer's custody, and shall not charge such Eligible Investor any fees relating to or in connection with the return to WFI or Wells Fargo Institutional Broker-Dealers or custodianship by WFI or Wells Fargo Institutional Broker-Dealers of such Eligible Auction Rate Securities.

4. Customer Assistance. WFI and Wells Fargo Institutional Broker-Dealers shall promptly establish a dedicated toll-free telephone assistance line to provide information and to respond to questions concerning the terms of this Agreement, and to provide information concerning the terms of this Agreement and, via an e-mail address or other reasonable means, to respond to questions concerning the terms of this Agreement. WFI and Wells Fargo Institutional Broker-Dealers shall maintain the telephone assistance line through at least the last day of the Purchase Deadline.

5. Relief for Eligible Investors Who Sold Below Par. No later than upon the completion of the buyback (as described in Paragraph 3, above), WFI and Wells Fargo Institutional Broker-Dealers shall undertake to identify, using the notice to Eligible Investors referenced in Paragraph 3 above, any Eligible Investor who sold Eligible Auction Rate Securities below par between February 13, 2008 and the date of this Agreement ("Below Par Seller") and upon receipt of satisfactory evidence of the sale pay them the difference between par and the

price at which the Eligible Investor sold the Eligible Auction Rate Securities, plus reasonable interest thereon at the rate of seven (7) day LIBOR.

6. Consequential Damages Arbitration Process.

a. WFI and Wells Fargo Institutional Broker-Dealers shall consent to participate in a special arbitration process (“Arbitration”) for the exclusive purpose of arbitrating any Eligible Investor’s consequential damages claim arising from their inability to sell Eligible Auction Rate Securities. WFI and Wells Fargo Institutional Broker-Dealers shall notify Eligible Investors of the terms of the Arbitration process through the notice described in Paragraph 3 above.

b. The Arbitration shall be conducted under the auspices of FINRA, pursuant to the NASD Code of Arbitration Procedures for Customer Disputes, eff. April 16, 2007. WFI and Wells Fargo Institutional Broker-Dealers will pay all applicable forum and filing fees.

c. Any Eligible Investors who choose to pursue such claims in the Arbitration shall bear the burden of proving that they suffered consequential damages and that such damages were caused by their inability to access funds invested in Eligible Auction Rate Securities. In the Arbitration, WFI and Wells Fargo Institutional Broker-Dealers shall be able to defend itself against such claims; provided, however, that WFI and Wells Fargo Institutional Broker-Dealers shall not contest liability for the illiquidity of the underlying auction rate securities position.

d. Eligible Investors who elect to use the special arbitration process provided for herein shall not be eligible for punitive damages, or for any other type of damages other than consequential damages.

e. Eligible Investors that elect to utilize FINRA's special arbitration process, set forth above, are limited to the remedies available in that process and may not bring or pursue a claim relating to Eligible Auction Rate Securities in another forum.

## **II. OTHER PROVISIONS**

7. Fees and Costs. Within thirty (30) days following the execution of this Agreement, WFI agrees to pay by check to the California Attorney General the total sum of \$600,000 in recognition of the Attorney General's fees and costs: (i) incurred and to be incurred in connection with the Investigation and the Action; and (ii) to be incurred in connection with the monitoring and enforcement of the terms of this Agreement and any litigation related thereto.

8. Civil Penalties and Fines. WFI and Wells Fargo Institutional Broker-Dealers will not pay any penalty or fine as part of the resolution of this Action.

9. Notice of Settlement, Request for Stay, and Dismissal of Action.

a. Upon execution of this Agreement, the Parties shall provide notice to the Court that there exists a settlement in principle, the terms of which resolve this Action.

b. The Parties jointly shall file a request that the Court stay the Action for five (5) months for the purpose of permitting performance in full of the terms of this Agreement. During the stay, the Court shall retain jurisdiction over the Parties to enforce this Agreement.



c. After performance in full of the terms of this Agreement, the Attorney General shall file a dismissal with prejudice of the Action against WFI and the Wells Fargo Institutional Broker-Dealers, with each side to bear its own attorneys' fees and costs other than the fees and costs WFI and Wells Fargo Institutional Broker-Dealers have agreed to pay in Paragraph 7 of this Agreement.

10. Releases by the Attorney General.

a. In consideration for the obligations and mutual releases set forth in this Agreement, the Attorney General in his official capacity and on behalf of the People of California and its agents, insurers, attorneys, affiliated and related entities, assigns, and other representatives of any kind or nature, and their predecessors and successors in interest ("Releasers"), hereby fully release, remise and forever discharge WFI and Wells Fargo Institutional Broker-Dealers, and their respective present and former partners, limited partners, subordinated limited partners, trustees, managing partners, executive committee, management committee, employees, investment representatives, financial advisors, officers, agents, insurers, attorneys, parent organizations, subsidiaries, affiliated and related entities, assigns and other representatives of any kind or nature, and their predecessors and successors in interest, from any and all claims (including attorneys fees and/or costs), actions, rights, demands, damages, costs, liabilities of any kind or nature, sounding in tort, contract or any statutory, regulatory or other theory of liability which Releasers now have or have ever had or may hereafter have against them, arising out of, in connection with or related to the subject matter of the investigation, the allegations contained and which could have been raised in this Action.

b. Releasers acknowledge that they are aware of, and specifically waive, the provisions of California Civil Code § 1542, which provides as follows:

**1542. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

c. Releasors acknowledge that they fully and voluntarily waive, release and relinquish any and all of the rights and benefits which they may have under said Section 1542 or under the laws of any other state or jurisdiction to the same or similar effect, as pertains to the releases contained in this Agreement. In connection with such waiver and relinquishment, Releasors acknowledge that they are aware that they may discover facts in addition to or different from those which they currently know or believe to be true with respect to the subject matters of this Agreement, but that it is their intention hereby, to fully, finally and forever settle and release all matters which now exist, may exist, or previously existed between the Parties, whether or not now known or unknown, suspected or unsuspected with respect to the Investigation and Action. In furtherance of such intent, the release given herein shall be and shall remain in effect as a full and complete release, notwithstanding the discovery or existence of any such additional or different facts.

11. No Admission or Finding of Liability. Nothing contained in this Agreement shall be deemed to be an admission of any liability, fault or wrongdoing. The Parties agree that this Agreement shall not be admissible in any hearing, action or proceeding except prove the existence of this Agreement or to enforce this Agreement's terms.

12. Miscellaneous.

(a) Advice of Counsel. Each of the Parties has obtained advice of legal counsel prior to and for the execution of this Agreement and understands fully the contents of this Agreement. Each of the Parties warrants and represents that the party executing this Agreement on its behalf is duly authorized and empowered to execute this Agreement.

(b) Entire Agreement. This document constitutes the entire agreement between the Parties to this Agreement regarding the matters described. All oral agreements, representations and prior agreements between the Parties to this Agreement regarding any such matters are merged herein, and this Agreement supersedes all such prior representations and agreements. There are no representations, agreements, arrangements or understandings, oral or written, between the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. The Parties agree that no extrinsic evidence may be introduced to vary the terms hereof in any judicial proceeding involving this Agreement.

(c) Governing Law. The rights and obligations of the Parties and the interpretation and performance of this Agreement shall be governed by the law of California.

(d) Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the Parties had all signed the same document. All counterparts shall be construed together and shall constitute one agreement. The Parties stipulate that counterparts, facsimile, or duplicate originals of this Agreement or any portion thereof shall be admissible in any judicial proceeding to the same extent that the original would be admissible for all purposes including but not limited to meeting the requirements of California Code of Civil Procedure § 664.6.

(e) Succession. Subject to the provisions otherwise contained in this Agreement, this Agreement shall inure to the benefit of and be binding on the successors and assigns of the respective Parties.

(f) Amendment. The provisions of this Agreement may be modified at any time by agreement of the Parties. Any such agreement hereafter made shall be ineffective to modify this Agreement in any respect unless in writing and signed by the Parties.

(g) Severability. If any provision of this Agreement or the application thereof to any entity or circumstance, for any reason and to any extent, is adjudicated to be invalid or unenforceable, neither the remainder of this Agreement nor the application of such provision to any other entity or circumstance shall be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

(h) Ambiguities and Uncertainties. Any ambiguities or uncertainties in this Agreement shall be equally and fairly interpreted and construed without reference to the identity of the party or parties preparing this Agreement or any document referred to in this Agreement, on the understanding that the Parties participated equally in the negotiation and preparation of this Agreement and the documents referred to in this Agreement, or have had the opportunity to do so.

Agreement on the date set forth below.

Date: \_\_\_\_\_

EDMUND G. BROWN JR.  
CALIFORNIA ATTORNEY GENERAL

By: \_\_\_\_\_  
Mark J. Breckler  
Senior Assistant Attorney General

Date: \_\_\_\_\_

WELLS FARGO INVESTMENTS, LLC

By: \_\_\_\_\_

Date: \_\_\_\_\_

WELLS FARGO SECURITIES, LLC

By: \_\_\_\_\_

Date: \_\_\_\_\_

WELLS FARGO INSTITUTIONAL  
SERVICES, LLC

By: \_\_\_\_\_

APPROVED AS TO FORM:

REED SMITH LLP

By: \_\_\_\_\_

BINGHAM MCCUTCHEN LLP

By: \_\_\_\_\_