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10 Attorneys for Plaintiffs Matthew C. Kilgore,  
 11 William Bruce Fuller and Kevin Wilhelmy

12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**

14 MATTHEW C. KILGORE, individually and on )  
 15 behalf of all others similarly situated; )  
 16 WILLIAM BRUCE FULLER, individually and )  
 17 on behalf of all others similarly situated; )  
 18 KEVIN WILHELMY, individually and on )  
 19 behalf of all others similarly situated, )  
 20 Plaintiffs, )  
 21 v. )  
 22 KEYBANK NATIONAL ASSOCIATION, a )  
 23 national banking association organized under )  
 24 the laws of the United States of America and )  
 25 successor in interest to KEYBANK USA, N.A.; )  
 26 KEY EDUCATION RESOURCES, a division )  
 27 of KEYBANK, NATIONAL ASSOCIATION; )  
 28 GREAT LAKES EDUCATIONAL LOAN )  
 SERVICES, INC., a Wisconsin corporation; )  
 STUDENT LOAN XPRESS, a Delaware )  
 corporation; AMERICAN EDUCATION )  
 SERVICES, form of entity unknown; DOES )  
 1-25, )  
 Defendants. )

Case No. C08-02958 TEH

**STIPULATION AND [PROPOSED]  
 ORDER TO EXTEND TIME TO RESPOND  
 TO COMPLAINT AND TO CONTINUE  
 CASE MANAGEMENT CONFERENCE  
 FOR DEFENDANTS STUDENT LOAN  
 XPRESS, INC. AND AMERICAN  
 EDUCATION SERVICES**

**[DECLARATION OF ANDREW A.  
 AUGUST FILED CONCURRENTLY  
 HEREWITH]**

**STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME  
 TO RESPOND TO COMPLAINT AND CONTINUE CMC  
 CASE NO. C08-02958 TEH**

1 WHEREAS, the Second Amended Complaint (“Complaint”) asserts claims on behalf  
2 of a California-only putative class of student-borrowers who were attending a helicopter pilot  
3 training school – Silver State Helicopters (“Silver State”) – when Silver State ceased operations and  
4 filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code, 11 U.S.C.,  
5 § 101 et seq., in the United States District Court for the District of Nevada in February 2008, Case  
6 No. BK-S-08-10936-MKN (“Silver State Bankruptcy Action”);

7 WHEREAS, Silver State is not a party to this action, but rather, the Complaint asserts  
8 claims against Defendants who are the holders or servicers of loans taken out by students to finance  
9 their education at Silver State;

10 WHEREAS, the putative class is comprised of two classes: (a) a class of student-  
11 borrowers whose loans are held by Defendant Student Loan Xpress, Inc. (“SLX”) and serviced by  
12 Defendant American Education Services (“AES”) (the “SLX Class”); and (b) a class of student  
13 borrowers whose loans are held by Defendant KeyBank, N.A. (“KeyBank”) and serviced by  
14 Defendant Great Lakes Education Loan Services, Inc. (“Great Lakes”) (the “KeyBank Class”);

15 WHEREAS, approximately 80% of the putative class members are part of the SLX  
16 Class because the vast majority of the loans at issue in this action are held by SLX and serviced by  
17 AES;

18 WHEREAS, the Complaint asserts claims based on, among other things, Defendants’  
19 alleged involvement with Silver State and the absence of the FTC Holder Notice in the students’  
20 loan documents;

21 WHEREAS, as the Court is aware, this action is one of several putative class actions  
22 and one collective action pending against SLX arising from the closure and bankruptcy of Silver  
23 State, including other actions pending in the United States District Court for the Middle District of  
24 Florida (the “Florida Action”), and the United States District Court for the District of South  
25 Carolina;

26 WHEREAS, in light of the parties efforts to resolve the claims asserted against SLX  
27 and AES through a proposed nationwide class action settlement that would be presented for  
28

1 preliminary approval to the court in the Florida Action, the parties have filed several stipulations  
2 requesting an extension of time for SLX and AES to respond to the Complaint and a continuance of  
3 the Case Management Conference;

4 WHEREAS, the current deadline for SLX and AES to respond to the Complaint is  
5 June 5, 2009 (see Dkt. 57) and the Case Management Conference for SLX and AES is currently set  
6 for July 6, 2009 at 10:00 a.m. (see Dkt. 70);

7 **STATUS OF FLORIDA ACTION**

8 WHEREAS, on May 19, 2009, the parties in the Florida Action submitted a joint  
9 motion (the “Joint Motion”) requesting an extension of time for SLX to respond to the complaint in  
10 that action until July 31, 2009;

11 WHEREAS, the Joint Motion advised the Court that although the parties had  
12 contemplated submitting the proposed nationwide settlement for preliminary approval on or before  
13 May 28, 2009, additional time was necessary because (a) certain state Attorneys General have  
14 undertaken a cooperative investigation into the business practices of Silver State and the events  
15 relating to its closure in February 2008 (the “AG Task Force”); (b) because SLX would be required  
16 to provide notice of the proposed nationwide settlement to certain federal and state regulators,  
17 including the AG Task Force, pursuant to the Class Action Fairness Act (28 U.S.C. §§ 1332(d),  
18 1453, 1711-1715), SLX had engaged in discussions and is currently engaged in discussions with the  
19 AG Task Force to determine whether the AG Task Force is comfortable with the terms of the  
20 proposed nationwide settlement; (c) in connection with these discussions, in late April, the AG Task  
21 Force requested, and SLX has since provided, non-private information regarding certain of the  
22 putative class members; (d) plaintiffs’ counsel in the Florida Action and this Action have had, and  
23 continue to have, contact with the AG Task Force regarding the terms of the proposed nationwide  
24 settlement; and (e) both SLX and plaintiffs’ counsel required additional time to continue their  
25 respective discussions with the AG Task Force to ensure that the AG Task Force is comfortable with  
26 the terms of the proposed settlement;

27 WHEREAS, on May 26, 2009, the Court in the Florida Action entered an order

1 extending the time for SLX to respond to the complaint until July 31, 2009;

2 **REQUEST FOR CONTINUANCE**

3 WHEREAS, this stipulation is only between Plaintiffs, SLX and AES, and Plaintiffs  
4 and Defendants KeyBank and Great Lakes continue to litigate their respective claims;

5 WHEREAS, the parties request this extension in order to allow SLX and plaintiffs'  
6 counsel to continue their respective discussions with the AG Task Force to ensure that the AG Task  
7 Force is comfortable with the terms of the proposed nationwide settlement – a settlement that would  
8 resolve (and would result in the dismissal of) the claims asserted against SLX and AES in this  
9 Action;

10 WHEREAS, the parties have already expended considerable time and resources in  
11 their efforts to reach a settlement that is more than fair, reasonable, and adequate, conserves private  
12 and judicial resources, and ensures speedy relief for the proposed nationwide settlement class; and

13 WHEREAS, a further extension will allow the parties to continue with those efforts  
14 and to continue to work towards presenting the proposed nationwide settlement to the court in the  
15 Florida Action, rather than immediately undertake motion practice and other litigation activity;

16 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiffs,  
17 SLX and AES, through their respective counsel of record, that SLX and AES shall have up to and  
18 including August 10, 2009 to answer, move, or otherwise respond to the Complaint. The parties also  
19 jointly request that the Case Management Conference for SLX and AES be continued to August 17,  
20 2009 at 1:30 p.m.

21 Dated: May 28, 2009

Respectfully submitted,

22 **PINNACLE LAW GROUP LLP**

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25 By: /s/ Andrew A. August  
Andrew A. August (SBN 112851)  
Attorneys for Plaintiffs  
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Dated: May 28, 2009

**SIDLEY AUSTIN LLP**

By: /s/ *Robert M. Stone*  
Robert M. Stone (SBN 205365)  
Attorneys for Defendant  
STUDENT LOAN XPRESS, INC.

Dated: May 28, 2009

**MCKENNA LONG & ALDRIDGE LLP**

By: /s/ *Ann G. Grimaldi*  
Ann G. Grimaldi (SBN 160893)  
Attorneys for Defendant  
AMERICAN EDUCATION SERVICES

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**ORDER**

Based on the foregoing stipulation of counsel and good cause appearing therefore, it is  
HEREBY ORDERED that Student Loan Xpress, Inc. (“SLX”) and American Education Services  
 (“AES”) shall have up to and including August 10, 2009 to answer, move, or otherwise respond to  
 the Complaint. Additionally, the Case Management Conference is hereby continued for SLX and  
 AES until August 17, 2009 at 1:30 p.m.

PURSUANT TO STIPULATION OF COUNSEL, IT IS SO ORDERED.

Dated: May 29, 2009

