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 William Bruce Fuller and Kevin Wilhelmy  
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8 **UNITED STATES DISTRICT COURT**  
 9 **NORTHERN DISTRICT OF CALIFORNIA**

11 MATTHEW C. KILGORE, individually and on )  
 behalf of all others similarly situated; )  
 12 WILLIAM BRUCE FULLER, individually and )  
 on behalf of all others similarly situated; )  
 13 KEVIN WILHELMY, individually and on )  
 behalf of all others similarly situated, )

14 Plaintiffs, )

15 v. )

16 KEYBANK NATIONAL ASSOCIATION, a )  
 national banking association organized under )  
 17 the laws of the United States of America and )  
 successor in interest to KEYBANK USA, N.A.; )  
 18 KEY EDUCATION RESOURCES, a division )  
 of KEYBANK, NATIONAL ASSOCIATION; )  
 19 GREAT LAKES EDUCATIONAL LOAN )  
 20 SERVICES, INC., a Wisconsin corporation; )  
 STUDENT LOAN XPRESS, a Delaware )  
 21 corporation; AMERICAN EDUCATION )  
 SERVICES, form of entity unknown; DOES )  
 22 1-25, )

23 Defendants. )  
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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, this stipulation only relates to the claims brought on behalf of the SLX  
16 Class, and Plaintiffs, KeyBank and Great Lakes continue to litigate their respective claims;

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

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

25 WHEREAS, in light of the parties efforts to resolve the claims asserted against SLX  
26 and AES through a proposed nationwide class action settlement that would be presented for  
27 preliminary approval to the court in the Florida Action, the parties have filed several stipulations

1 requesting an extension of time for SLX and AES to respond to the Complaint and a continuance of  
2 the Case Management Conference;

3 WHEREAS, in a stipulation filed with the Court on May 28, 2009 (see Dkt. 75), the  
4 parties advised that additional time was necessary to present the proposed nationwide settlement for  
5 preliminary approval in the Florida Action because SLX, plaintiffs' counsel in this Action, and  
6 plaintiffs' counsel in the Florida Action were engaged in separate discussions with certain state  
7 Attorneys General who had undertaken a cooperative investigation into the business practices of  
8 Silver State and the events relating to its closure (the "AG Task Force") to ensure that the AG Task  
9 Force was comfortable with the terms of the proposed settlement;

10 WHEREAS, the current deadline for SLX and AES to respond to the Complaint is  
11 August 10, 2009, and the Case Management Conference for SLX and AES is currently set for  
12 August 17, 2009 at 1:30 p.m. (see Dkt. 76);

13 **STATUS OF FLORIDA ACTION**

14 WHEREAS, on June 25, 2009, the Court in the Florida Action conducted a telephonic  
15 status conference to discuss, among other things, the parties' efforts to finalize the proposed  
16 nationwide settlement;

17 WHEREAS, during this telephonic conference, SLX advised the Court that progress  
18 had been made with the AG Task Force regarding the proposed settlement, and that the parties  
19 therefore would be requesting additional time to bring their discussions with the AG Task Force to  
20 resolution and to then finalize and submit the proposed nationwide settlement for court approval;

21 WHEREAS, on July 9, 2009, the parties filed a joint motion requesting an extension  
22 of time for SLX to respond to the complaint in that action until August 31, 2009;

23 WHEREAS, on July 10, 2009, the Court in the Florida Action entered an order  
24 extending the time for SLX to respond to the complaint until August 31, 2009;

25 **REQUEST FOR CONTINUANCE**

26 WHEREAS, SLX has made substantial progress in its discussions with the AG Task  
27 Force, and SLX expects that those discussions will conclude in September 2009;

1 WHEREAS, provided SLX's discussions with the AG Task Force have successfully  
2 concluded by early September 2009, the parties in the Florida Action intend to present the proposed  
3 settlement for preliminary approval by September 28, 2009 and request a preliminary approval  
4 hearing during the week of October 5, 2009;

5 WHEREAS, in light of the foregoing, Plaintiffs, SLX and AES therefore have agreed  
6 that the deadline for SLX and AES to respond to the Complaint should be extended to October 13,  
7 2009 and that the Case Management Conference should be rescheduled to October 19, 2009 at 1:30  
8 p.m.;

9 WHEREAS, in the event SLX's discussions with the AG Task Force conclude earlier  
10 than presently expected – *i.e.*, prior to the end of August 2009 – the parties in the Florida Action  
11 intend to present the proposed settlement for preliminary approval and request a preliminary  
12 approval hearing no later than September 15, 2009;

13 WHEREAS, the parties therefore request this extension in order to allow SLX to  
14 conclude its discussions with the AG Task Force and to move forward with preliminary approval of  
15 the proposed nationwide settlement – a settlement that would resolve (and would result in the  
16 dismissal of) the claims asserted against SLX and AES in this Action;

17 WHEREAS, Plaintiffs in this Action, Plaintiffs in the Florida Action, and SLX have  
18 already expended considerable time and resources in their efforts to reach a settlement that is more  
19 than fair, reasonable, and adequate, conserves private and judicial resources, and ensures speedy  
20 relief for the proposed nationwide settlement class; and

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

24 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiffs,  
25 SLX and AES, through their respective counsel of record, that SLX and AES shall have up to and  
26 including October 13, 2009 to answer, move, or otherwise respond to the Complaint. The parties  
27 also jointly request that the Case Management Conference for SLX and AES be continued to

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October 19, 2009 at 1:30 p.m.

Dated: August 3, 2009

Respectfully submitted,

**PINNACLE LAW GROUP LLP**

By: /s/ Andrew A. August  
Andrew A. August (SBN 112851)  
Attorneys for Plaintiffs

Dated: August 3, 2009

**SIDLEY AUSTIN LLP**

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

Dated: August 3, 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 October 13, 2009 to answer, move, or otherwise respond to  
 the Complaint. Additionally, the Case Management Conference is hereby continued for SLX and  
 AES until October 19, 2009, at 1:30 p.m.

PURSUANT TO STIPULATION OF COUNSEL, IT IS SO ORDERED.

Dated: August 4, 2009

