

1 GEORGE M. NEWCOMBE (Bar No. 202898)
 gnewcombe@stblaw.com
 2 JAMES G. KREISSMAN (Bar No. 206740)
 jkreissman@stblaw.com
 3 SIMPSON THACHER & BARTLETT LLP
 2550 Hanover Street
 4 Palo Alto, California 94304
 Telephone: (650) 251-5000
 5 Facsimile: (650) 251-5002

6 Attorneys for Defendants Richard S. Fuld,
 Jr., Christopher M. O'Meara, Joseph M.
 7 Gregory, Ian Lowitt, David Goldfarb, John
 F. Akers, Roger S. Berlind, Marsha Johnson
 8 Evans, Roland A. Hernandez and Henry
 Kaufman
 9

10
 11 UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION
 14

15 CITY OF AUBURN,

16 Plaintiff,

17 v.

18 RICHARD S. FULD, JR., CHRISTOPHER M.
 19 O'MEARA, JOSEPH M. GREGORY, ERIN
 CALLAN, IAN LOWITT, DAVID GOLDFARB,
 20 JOHN F. AKERS, ROGER S. BERLIND,
 MARSHA JOHNSON EVANS, ROLAND A.
 21 HERNANDEZ, HENRY KAUFMAN, ERNST &
 YOUNG LLP, and DOES 1 through 20,
 22

23 Defendants.

Case No. C 09-0875 VRW

**STIPULATION AND ~~PROPOSED~~
 ORDER STAYING CASE PENDING
 DETERMINATION BY THE
 JUDICIAL PANEL ON
 MULTIDISTRICT LITIGATION TO
 TRANSFER CASE PURSUANT TO 28
 U.S.C. § 1407 AND EXTENDING
 TIME TO ANSWER OR
 OTHERWISE RESPOND TO THE
 COMPLAINT**

24 WHEREAS on or about February 19, 2009, Plaintiff City of Auburn ("Plaintiff")
 25 filed the Complaint in this case in the Superior Court of the State of California, County of San
 26 Francisco;

1 WHEREAS on February 27, 2009, Defendants Richard S. Fuld, Jr., Christopher
2 M. O'Meara, Joseph M. Gregory, Ian Lowitt, David Goldfarb, John F. Akers, Roger S. Berlind,
3 Marsha Johnson Evans, Roland A. Hernandez and Henry Kaufman timely filed a Notice of
4 Removal in this Court; and Defendant Ernst & Young LLP filed a joinder to the Notice of
5 Removal on March 2, 2009;

6 WHEREAS cases sharing common questions of fact with this case have
7 previously been transferred from this District by the Judicial Panel on Multidistrict Litigation
8 (the "MDL Panel") to the Honorable Lewis A. Kaplan of the United States District Court for the
9 Southern District of New York pursuant to 28 U.S.C. § 1407;

10 WHEREAS on March 5, 2009, certain Defendants filed a "tag-along" notice with
11 the MDL Panel to inform the MDL Panel that this action is related to other actions previously
12 transferred by the MDL Panel to the Southern District of New York;

13 WHEREAS previously removed related cases, Zenith Insurance Co. v. Fuld, et
14 al., Case No. C 08-5352-SC, San Mateo County Investment Pool v. Fuld, et al., Case No. C 08-
15 5353-SC, Lou Solton, Monterey County Treasurer, on behalf of the Monterey County
16 Investment Pool, v. Fuld, et al., Case No. C 08-5167 SC, and City of South San Francisco v.
17 Citigroup Global Markets Inc., et al., Case No. C 09-0501 SC, were stayed by the Honorable
18 Samuel Conti pending transfer of the actions by the MDL Panel to the Southern District of New
19 York;
20

21 WHEREAS Plaintiff does not intend to oppose the MDL Panel's transfer of this
22 action to the Southern District of New York;

23 WHEREAS Plaintiff intends to file a motion to remand in this action following
24 transfer of the action to the Southern District of New York, or earlier if permitted by that Court;

25 NOW, THEREFORE, pursuant to Civ. L.R. 6-1(a), the undersigned parties
26 hereby stipulate that:
27

28

1 This case shall be stayed pending issuance of a transfer order by the MDL Panel;
2 Plaintiff's time within which to file a motion to remand shall be extended until
3 such time as ordered by Judge Kaplan in the Southern District of New York following transfer of
4 this action; and

5 Defendants' time within which to answer or otherwise respond to the Complaint
6 is extended to 30 days from the issuance of an order deciding Plaintiff's remand motion or such
7 time as ordered by Judge Kaplan in the Southern District of New York following transfer of this
8 action.

9
10 Dated: March 9, 2009

11
12 /s/ James G. Kreissman
13 JAMES G. KREISSMAN
14 SIMPSON THACHER & BARTLETT LLP

15 Attorneys for Defendants
16 RICHARD S. FULD, JR., CHRISTOPHER M. O'MEARA,
17 JOSEPH M. GREGORY, IAN LOWITT, DAVID
18 GOLDFARB, JOHN F. AKERS, ROGER S. BERLIND,
19 MARSHA JOHNSON EVANS, ROLAND A.
20 HERNANDEZ, AND HENRY KAUFMAN

21 /s/ Mark C. Molumphy
22 MARK C. MOLUMPHY
23 COTCHETT, PITRE & MCCARTHY

24 Attorneys for Plaintiff
25 CITY OF AUBURN
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ James K. Lynch
JAMES K. LYNCH
LATHAM & WATKINS LLP

Attorneys for Defendant
ERNST & YOUNG LLP

/s/ Joshua Judah Pollack
JOSHUA JUDAH POLLACK
PROSKAUER ROSE LLP

Attorneys for Defendant
ERIN CALLAN

ATTESTATION PURSUANT TO GENERAL ORDER 45, § X

I, James G. Kreissman, attest pursuant to General Order 45, § X, that concurrence in the filing of this Stipulation has been obtained from each of the other signatories above.

/s/ James G. Kreissman
JAMES G. KREISSMAN

PURSUANT TO STIPULATION, IT IS SO ORDERED.:

DATED: March 10, 2009

