

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

5 Attorneys for Defendants Richard S. Fuld,
 Jr., Christopher M. O'Meara, Michael L.
 6 Ainslie, John F. Akers, Roger S. Berlind,
 Thomas H. Cruikshank, Marsha Johnson
 7 Evans, Sir Christopher Gent, Roland A.
 Hernandez, Henry Kaufman, and John D.
 8 Macomber

9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

CITY OF FREMONT,

Plaintiff,

v.

CITIGROUP GLOBAL MARKETS, INC., BANC
 OF AMERICA SECURITIES, LLC, BNY
 CAPITAL MARKETS, INC., ERNST & YOUNG,
 LLP, RICHARD S. FULD, JR., CHRISTOPHER M.
 O'MEARA, ERIN M. CALLAN, MICHAEL L.
 AINSLIE, JOHN F. AKERS, ROGER S. BERLIND,
 THOMAS H. CRUIKSHANK, MARSHA
 JOHNSON EVANS, SIR CHRISTOPHER GENT,
 ROLAND A. HERNANDEZ, HENRY KAUFMAN,
 JOHN D. MACOMBER, and DOES 1 through 20,

Defendants.

Case No. C 09-0926 JCS

**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**

WHEREAS on or about February 24, 2009, Plaintiff City of Fremont ("Plaintiff")
 filed the Complaint in this case in the Superior Court of the State of California, County of
 Alameda;

1 WHEREAS on March 3, 2009, Defendants Richard S. Fuld, Jr., Christopher M.
2 O'Meara, Michael L. Ainslie, John F. Akers, Roger S. Berlind, Thomas H. Cruikshank, Marsha
3 Johnson Evans, Sir Christopher Gent, Roland A. Hernandez, Henry Kaufman, and John D.
4 Macomber timely filed a Notice of Removal in this Court; Defendant Ernst & Young LLP filed a
5 joinder to the Notice of Removal on March 6, 2009; and Defendants Citigroup Global Markets,
6 Inc., Banc of America Securities, LLC and BNY Mellon Capital Markets LLC filed a joinder to
7 the Notice of Removal on March 6, 2009;

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

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

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

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

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

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

28 This case shall be stayed pending issuance of a transfer order by the MDL Panel;

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

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

8
9 Dated: March 9, 2009

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ James G. Kreissman
JAMES G. KREISSMAN
SIMPSON THACHER & BARTLETT LLP

Attorneys for Defendants
RICHARD S. FULD, JR., CHRISTOPHER M. O'MEARA,
MICHAEL L. AINSLIE, JOHN F. AKERS, ROGER S.
BERLIND, THOMAS H. CRUIKSHANK, MARSHA
JOHNSON EVANS, SIR CHRISTOPHER GENT,
ROLAND A. HERNANDEZ, HENRY KAUFMAN, and
JOHN D. MACOMBER

/s/ George S. Trevor
GEORGE S. TREVOR
PEARSON, SIMON, WARSHAW & PENNY, LLP

Attorneys for Plaintiff
CITY OF FREMONT

/s/ Peter R. Boutin
PETER R. BOUTIN
CHRISTOPHER A. STECHER
KEESAL, YOUNG & LOGAN

Attorneys for Defendants
CITIGROUP GLOBAL MARKETS, INC., BANC OF
AMERICA SECURITIES, LLC, and BNY MELLON
CAPITAL MARKETS, LLC

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 9, 2009

