

1 (Attorney list on signature page)

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3
4 **UNITED STATES DISTRICT COURT**

5 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

6 **SAN FRANCISCO DIVISION**

7
8 Merrill Lynch, Pierce, Fenner & Smith
9 Incorporated, as successor by merger to Banc of
10 America Securities LLC, Jason David Glidden,
and Verlin Olen Dobkins,

11 **Plaintiffs,**

12 **v.**

13 N.R. Hamm Quarry, LLC,

14 **Defendant.**

No. 3:12-cv-02127-JSW

15
16 **STIPULATION AND ~~PROPOSED~~**
17 **SCHEDULING ORDER**

1 **STIPULATION**

2 Plaintiffs Merrill Lynch, Pierce, Fenner & Smith Incorporated, as successor by merger to
3 Banc of America Securities LLC (“BAS”), Jason David Glidden, and Verlin Olen Dobkins, and
4 Defendant N.R. Hamm Quarry, LLC, by and through their respective counsel of record, hereby
5 stipulate as follows:

6 **WHEREAS**, on August 28, 2012, the parties submitted a stipulation and proposed order
7 regarding the briefing schedule for Plaintiffs’ cross-motion for summary judgment;

8 **WHEREAS**, the parties stipulated that (i) Defendant shall file its opposition to Plaintiffs’ cross-
9 motion for summary judgment (or, subject to satisfaction of Defendant’s discovery requests, a Motion
10 pursuant to Fed. R. Civ. P. 56(d)) by September 28, 2012; (ii) Plaintiffs shall file their reply in support
11 of the cross-motion for summary judgment by November 9, 2012; and (iii) the hearing on Defendant’s
12 motion to dismiss and Plaintiffs’ cross-motion for summary judgment shall be rescheduled for
13 November 16, 2012 or December 7, 2012 (the first available hearing date following the Thanksgiving
14 holiday), at the Court’s convenience;

15 **WHEREAS**, the proposed order accompanying the stipulation reflected the parties’ agreement,
16 except that it inadvertently stated that Plaintiffs would file their reply in support of the cross-motion for
17 summary judgment by November 2, 2012, instead of November 9, 2012;

18 **WHEREAS**, on August 29, 2012, the Court executed the proposed order and scheduled the
19 hearing in this matter on December 7, 2012;

20 **WHEREAS**, Plaintiffs’ counsel are scheduled to appear for a two-day hearing in New York on
21 another matter on December 5 and 6, 2012, and therefore request a brief adjournment of the December
22 7, 2012 hearing date the Court set in the August 29, 2012 order; and

23 **WHEREAS**, the parties respectfully submit this revised stipulation and proposed order, which
24 (i) accurately reflects the date by which Plaintiffs shall file their reply in support of the cross-motion for
25 summary judgment, and (ii) respectfully requests that the Court reschedule the hearing on Defendant’s
26 motion to dismiss and Plaintiffs’ cross-motion for summary judgment for December 14, 2012.

27 **IT IS THEREFORE STIPULATED AND AGREED**, by and between Plaintiffs and
28 Defendant, by and through their representative counsel of record, subject to this Court’s approval, as

1 follows:

- 2 1. Plaintiffs shall file their reply in support of the cross-motion for summary judgment by
3 November 9, 2012;
- 4 2. The hearing on Defendant's motion to dismiss and Plaintiffs' cross-motion for summary
5 judgment shall be rescheduled for December 14, 2012; and
- 6 3. The Court's August 29, 2012 order shall otherwise remain in full effect.

7
8 Dated: August 31, 2012

9 **O'MELVENY & MYERS LLP**

10 By: /s/ B. Andrew Bednark

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4 *Attorneys for Defendant*

5 Attestation

6 I hereby attest that I have obtained concurrence in the filing of this Stipulation from all of
7 the parties listed in the signature blocks above.

8 Dated: August 31, 2012

9 By: /s/ B. Andrew Bednark

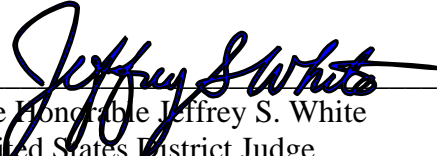
10 B. Andrew Bednark, Attorney for Plaintiffs

11
12 ~~PROPOSED~~ ORDER

13 Having reviewed the above stipulation, **IT IS HEREBY ORDERED** that:

- 14 1. Plaintiffs shall file their reply in support of the cross-motion for summary judgment by
- 15 November 9, 2012;
- 16 2. The hearing on Defendant’s motion to dismiss and Plaintiffs’ cross-motion for summary
- 17 judgment shall be rescheduled for December 14, 2012; and
- 18 3. The Court’s August 29, 2012 order shall otherwise remain in full effect.

19
20
21 Dated: ~~August~~, 2012
22 September 4, 2012


The Honorable Jeffrey S. White
United States District Judge