

1  
2  
3  
4  
5  
6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION

10 In re Edward H. Okun Internal Revenue  
11 Service § 1031 Tax Deferred Exchange  
Litigation

NO. C 07-02795 JW  
NO. C 09-02079 JW  
NO. C 09-md-02028JW

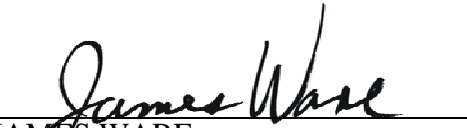
**ORDER REQUESTING AMENDED  
PROPOSED ORDER**

12  
13 \_\_\_\_\_/  
14 This case is scheduled for a hearing on February 28, 2011 on the parties' Joint Motion for  
15 Preliminary Approval of Wave III Class Settlement. (hereafter, "Motion," Docket Item No. 471.)  
16 Upon review of the parties' submissions, the Court finds that the parties' Proposed Orders do not  
17 satisfy the requirements of In re Mercury.<sup>1</sup> Specifically, the Proposed Orders must provide the class  
18 sufficient time following the filing of Plaintiffs' Attorney Fee Application for any Objectors to file  
19 their objections with respect to the Application to conform with the requirements of due process. Id.  
20 Further, In re Mercury requires that a fee application must include details sufficient for the class to  
21 meaningfully evaluate it, including detailed hour reports and how those efforts contributed to the  
22 benefit of the class. Id.  
23  
24  
25  
26  
27 \_\_\_\_\_

28 <sup>1</sup> In re Mercury Interactive Secs. Litig., No. 08-17372, 2010 WL 3239460 (9th Cir. Aug. 18, 2010).

1 Accordingly, on or before **February 28, 2011**, the parties shall submit Amended Proposed  
2 Orders that comport with the timing requirements of In re Mercury, namely, the parties shall include  
3 timing provisions for the filing of requests for attorneys fees and the class members' objections, if  
4 any, to the fee requests.<sup>2</sup> Further, pending preliminary approval of the settlement, the Court will set  
5 a Final Fairness Hearing for **June 27, 2011, at 9 a.m.** Thus, in their Amended Proposed Orders, the  
6 parties shall use this putative Final Fairness Hearing date to adjust all other deadlines accordingly.

7  
8 Dated: February 25, 2011

  
JAMES WARE  
United States District Chief Judge

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27 <sup>2</sup> Further, the Court notes that Defendant Citibank's Proposed Order has incorrectly included  
28 the date for the Final Fairness Hearing to be February 28, 2011.

**THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

Allen W. Burton aburton@omm.com  
Allison Lane Cooper acooper@kksrr.com  
Anthony Robert Zelle tzelle@zelmcd.com  
Bradley J. Lingo blingo@gibsondunn.com  
Brett Alan Broge bbroke@lerchsturmer.com  
Brian P. McDonough bmcdonough@zelmcd.com  
Carol Lynn Thompson cthompson@sidley.com  
Cindy Hamilton hamiltonc@gtlaw.com  
Debra Steel Sturmer Dsturmer@lerchsturmer.com  
Eileen Regina Ridley eridley@foley.com  
Ethan D. Dettmer edettmer@gibsondunn.com  
F. Joseph Warin fwarin@gibsondunn.com  
James Carnegie Krieg jkrieg@kksrr.com  
Jeffrey Noah Labovitch jlabovitch@mwwllp.com  
Jennifer Robin McGlone jmcglone@kksrr.com  
John Kenneth Van De Weert jvandeweert@sidley.com  
Jonathan Matthew Blute jblute@mpbf.com  
Karen Rosenthal rosenthalk@gtlaw.com  
Katherine R. Catanese kcatanese@foley.com  
Kevin Michael Fee kfee@sidley.com  
Lawrence A Kellogg lak@lklaw.com  
Madeline Anne Zamoyski mzamoyski@omm.com  
Mark Bruce Blocker mblocker@sidley.com  
Michael Drury mdrury@mwwllp.com  
Michael P. Denver mpdenver@hbsb.com  
Patrick T. Wong pwong@foley.com  
R. Van Swearingen vswearingen@sidley.com  
Robert A. Curtis rcurtis@foleybezek.com  
Robert Louis Brace rlbrace@hbsb.com  
Scott A. Fink sfink@gibsondunn.com  
Stephen F. Gordon sgordon@gordonfirm.com  
Thomas G. Foley tfoley@foleybezek.com  
Thomas Reynolds Heisler theisler@sidley.com  
Thomas W. Evans tevans@zelmcd.com  
Timothy J. Halloran thalloran@mpbf.com  
Todd Barnett Gordon tgordon@gordonfirm.com  
Wayne Allen Schrader wschrader@gibsondunn.com  
William J. Goines goinesw@gtlaw.com

**Dated: February 25, 2011**

**Richard W. Wieking, Clerk**

By: /s/ JW Chambers  
**Elizabeth Garcia**  
**Courtroom Deputy**