

1 MARC T.G. DWORSKY (SBN 157413)
 Marc.Dworsky@mto.com
 2 ROBERT L. DELL ANGELO (SBN 160409)
 Robert.DellAngelo@mto.com
 3 PAUL J. KATZ (SBN 243932)
 Paul.Katz@mto.com
 4 MUNGER, TOLLES & OLSON LLP
 355 South Grand Avenue
 5 Thirty-Fifth Floor
 Los Angeles, CA 90071-1560
 6 Telephone: (213) 683-9100
 Facsimile: (213) 687-3702
 7

Attorneys for Defendants
 8 WACHOVIA CORPORATION, WACHOVIA CAPITAL
 TRUST IV, WACHOVIA CAPITAL TRUST X,
 9 WACHOVIA CAPITAL MARKETS, LLC, G. KENNEDY
 THOMPSON, MARK C. TREANOR, THOMAS J.
 10 WURTZ, PETER M. CARLSON, JOHN D. BAKER II,
 ROBERT J. BROWN, PETER C. BROWNING, JOHN T.
 11 CASTEEN, III, JEROME A. GITT, WILLIAM H.
 GOODWIN, JR., MARYELLEN C. HERRINGER,
 12 ROBERT A. INGRAM, DONALD M. JAMES, MACKAY
 J. McDONALD, JOSEPH NEUBAUER, TIMOTHY D.
 13 PROCTOR, ERNEST S. RADY, VAN L. RICHEY, RUTH
 G. SHAW, LANTY L. SMITH, JOHN C. WHITAKER, JR.,
 14 and DONA DAVIS YOUNG (the "Wachovia Defendants")

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 SAN FRANCISCO DIVISION

18 MICHAEL SWISKAY and NORMAN
 LEVIN, Individually and on Behalf of All
 19 Others Similarly Situated,

20 Plaintiffs,

21 v.

22 WACHOVIA CORPORATION,
 23 WACHOVIA CAPITAL TRUST IV,
 WACHOVIA CAPITAL TRUST X, G.
 24 KENNEDY THOMPSON, MARK C.
 TREANOR, THOMAS J. WURTZ,
 25 PETER M. CARLSON, JOHN D. BAKER
 26 II, ROBERT J. BROWN, PETER C.
 BROWNING, JOHN T. CASTEEN, III,
 27 JEROME A. GITT, WILLIAM H.
 28 GOODWIN, JR., MARYELLEN C.

CASE NO. CV 09-1000 (PJH)

**JOINT STIPULATION REQUESTING
 POSTPONEMENT OF JUNE 18, 2009
 INITIAL CASE MANAGEMENT
 CONFERENCE; ~~PROPOSED~~ ORDER
 THEREON**

1 HERRINGER, ROBERT A. INGRAM,
2 DONALD M. JAMES, MACKEY J.
3 MCDONALD, JOSEPH NEUBAUER,
4 TIMOTHY D. PROCTOR, ERNEST S.
5 RADY, VAN L. RICHEY, RUTH G.
6 SHAW, LANTY L. SMITH, JOHN C.
7 WHITAKER, JR., DONA DAVIS
8 YOUNG, WACHOVIA CAPITAL
9 MARKETS, LLC, CITIGROUP GLOBAL
10 MARKETS INC., MERRILL LYNCH,
11 PIERCE, FENNER & SMITH
12 INCORPORATED, MORGAN STANLEY
13 & CO. INCORPORATED, and UBS
14 SECURITIES LLC,

15 Defendants.

16 This stipulation is made with reference to the following facts:

17 1. On March 6, 2009, the above-referenced action was removed to this Court
18 from the Superior Court of the State of California, County of Alameda.

19 2. That same day, this Court issued an order setting the Initial Case
20 Management Conference for June 18, 2009.

21 3. On March 10, 2009, Plaintiffs and certain Defendants filed a stipulation
22 with this Court which provided that — in light of an anticipated motion to transfer the case to the
23 United States District Court for the Southern District of New York pursuant to 28 U.S.C.
24 § 1404(a) — Plaintiffs would have until sixty (60) days after the Court enters an order in respect
25 to the anticipated motion to transfer in which to file a Consolidated and Amended Complaint and
26 Defendants' time to answer, move, or otherwise respond to the Complaint would be extended
27 through and including the sixtieth (60th) day after Plaintiffs serve their Consolidated and
28 Amended Complaint.

4. On March 18, 2009 the Court entered an order granting Plaintiffs leave to
file a Consolidated and Amended Complaint within sixty (60) days after the Court enters an order
in respect to the anticipated motion to transfer and extending the Defendants' time to answer,

1 move, or otherwise respond to the Complaint through and including the sixtieth (60th) day after
2 Plaintiffs serve their Consolidated and Amended Complaint.

3 5. On March 26, 2009, counsel for the Wachovia Defendants filed on consent
4 in *Miller v. Wachovia Corporation, et al.*, Case No. CV 09-0998 (RMW) (HRL), a motion to
5 relate the above-referenced action and *Orange County Employees' Retirement System, et al. v.*
6 *Carlson, et al.*, Case No. CV 09-0999 (MMC) (collectively, the "Related Actions") (attached
7 hereto as Exhibit A). The *Miller* court has yet to rule on the motion to relate.

8 6. On May 12, 2009, in anticipation of the *Miller* court's granting the above-
9 referenced motion to relate, counsel for the Wachovia Defendants filed on consent in the *Miller*
10 action a motion to transfer the Related Actions to the United States District Court for the
11 Southern District of New York (attached hereto as Exhibit B).

12 7. The hearing for the above-referenced motion to transfer is currently
13 scheduled for June 26, 2009.

14 8. The parties in the Related Actions anticipate that the *Miller* court will grant
15 the unopposed motion to relate and the unopposed motion to transfer the Related Actions to the
16 Southern District of New York. These anticipated rulings would obviate the need for a case
17 management conference before this Court.

18 IT IS THEREFORE STIPULATED BY THE PARTIES, by and through their
19 undersigned counsel of record, as follows:

20 1. The Initial Case Management Conference, currently set for June 18, 2009,
21 should be continued until after the court in *Miller v. Wachovia Corporation, et al.*, Case No. CV
22 09-0998 (RMW) (HRL), rules on the pending motion to relate and motion to transfer, to a date
23 convenient for the Court.

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ORDER

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The Initial Case Management Conference, currently set for June 18, 2009, is hereby continued until after the court in *Miller v. Wachovia Corp.*, Case No. CV 09-0998 (RMW) (HRL) rules on the pending motion to relate and motion to transfer.

IT IS SO ORDERED. The Initial Case Management is continued to Thursday, August 20, 2009 at 2:30 PM.

DATED: 06/12/09

