

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE HERALD, PRIMEO, AND THEMA FUNDS  
SECURITIES LITIGATION

This Document Relates to:

NEVILLE SEYMOUR DAVIS,

Plaintiff,

vs.

ALBERTO BENBASSAT, STÉPHANE BENBASSAT,  
GENEVALOR, BENBASSAT & CIE, GERALD J.P. BRADY,  
JOHN HOLLIWELL, SONJA KOHN, DANIEL MORRISSEY,  
PETER SCHEITHAUER, DAVID T. SMITH, WERNER  
TRIPOLT, BANK MEDICI AG, UNICREDIT SPA, HSBC  
INSTITUTIONAL TRUST SERVICES (IRELAND) LTD., HSBC  
SECURITIES SERVICES (IRELAND) LTD., HSBC BANK  
USA, N.A., HSBC HOLDINGS PLC,  
PRICEWATERHOUSECOOPERS INTERNATIONAL LTD.,  
PRICEWATERHOUSECOOPERS (DUBLIN),  
PRICEWATERHOUSECOOPERS LLP,  
PRICEWATERHOUSECOOPERS BERMUDA, THEMA  
ASSET MANAGEMENT LIMITED, THEMA INTERNATIONAL  
FUND PLC, BA WORLDWIDE FUND MANAGEMENT  
LIMITED, PETER MADOFF, ANDREW MADOFF, THE  
ESTATE OF MARK MADOFF, WILLIAM FRY, JP MORGAN  
CHASE & CO., and THE BANK OF NEW YORK MELLON,

Defendants.

ECF Case

Case No. 09 Civ. 0289 (RMB)

Case No. 09 Civ. 2558 (RMB)

**PROOF OF CLAIM, RELEASE AND ASSIGNMENT**

***Deadline for submission: \_\_\_\_\_, 2011***

TO: All persons and entities who were registered or beneficial owners of shares of Thema International Fund plc or its sub-fund Thema Fund (collectively, the "Fund") on December 10, 2008, and suffered damages thereby due to the conduct alleged in the complaint in the Action (the "Settlement Class").

**I. GENERAL INSTRUCTIONS**

A. All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Stipulation of Partial Settlement dated [●][●], 2011, available online at [www.themasettlement.com](http://www.themasettlement.com).

B. To recover as a member of the Settlement Class based on claims in *Davis v. Benbassat et al.*, Case No. 09 Civ. 2558 (S.D.N.Y.) (the "Action") you must review and complete this form Proof of Claim, Release and Assignment ("Proof of Claim"). If you fail to submit a Proof of Claim by the deadline, your claim may be rejected and you may be precluded from receiving any recovery from the Settlement Fund created in connection with the proposed Settlement of the Action.

C. Submission of a Proof of Claim does not assure that you will share in the proceeds of the Settlement.



YOU MUST COMPLETE AND SUBMIT A PROOF OF CLAIM VIA FIRST CLASS MAIL POSTMARKED ON OR BEFORE \_\_\_\_\_, 2011, ADDRESSED TO THE SETTLEMENT ADMINISTRATOR AS FOLLOWS:

***Davis v. Benbassat et al. – Litigation Claim Forms***  
**c/o Gilardi & Co. LLC**  
P.O. Box 8040  
San Rafael, CA 94912-8040  
Telephone: 877-230-7552

D. If you are NOT a member of the Settlement Class, as defined in the Notice of Pendency and Proposed Settlement of Class Action, Motion for Attorneys' Fees and Expenses, and Hearing (the "Notice"), which you may have received in the mail or viewed at [www.themasettlement.com](http://www.themasettlement.com), DO NOT submit a Proof of Claim.

IF YOU ARE A SETTLEMENT CLASS MEMBER AND DO NOT FILE A PROOF OF CLAIM, YOU WILL NOT RECEIVE ANY PAYMENT FROM THE NET SETTLEMENT FUND BUT YOU WILL NEVERTHELESS BE BOUND BY THE ORDER FINALLY APPROVING THE SETTLEMENT AND THE JUDGMENT DISMISSING THIS ACTION AS AGAINST THE SETTLING DEFENDANTS, AND ALL ORDERS, RELEASES, AND ASSIGNMENTS, THEREIN, UNLESS YOU PROPERLY EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS.

PROOFS OF CLAIM MUST BE FILED BY THE BENEFICIAL OWNER OF THE SHARES OF THE FUNDS UPON WHICH THE CLAIM IS BASED, OR ON THEIR BEHALF BY THE LEGAL REPRESENTATIVE OF SUCH OWNER. REGISTERED SHAREHOLDERS MAY NOT SUBMIT PROOFS OF CLAIM UNLESS THEY ARE BENEFICIAL OWNERS OR THE LEGAL REPRESENTATIVES OF THE BENEFICIAL OWNERS. REGISTERED SHAREHOLDERS WHO ACTED ONLY IN A NOMINEE OR SIMILAR CAPACITY MAY NOT SUBMIT PROOFS OF CLAIM BUT SHOULD TAKE CARE THAT THOSE FOR WHOM THEY ACTED ARE AFFORDED AN OPPORTUNITY TO SUBMIT SUCH A CLAIM.

E. All joint purchasers must sign this Proof of Claim. Legal representatives such as executors, administrators, guardians, conservators, trustees, and all other persons filing in a similar legal representative capacity, must complete and sign this form on behalf of the persons represented by them and state the titles or capacities in which they are acting. By signing this form, any legal representative so signing represents and warrants to the Settling Defendants that such representative has full authority to so act and that the beneficial owners for whom they are acting have not also filed a Proof of Claim.

## **II. INSTRUCTIONS FOR SCHEDULES OF TRANSACTIONS**

A. In the space provided below, supply all required details of your transaction(s) in the Fund. If you need more space, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

B. Please provide the requested information with respect to all of your holdings in the Fund from your first investment to present date inclusive. Failure to report all such information may result in the rejection of your claim.

C. You will also need to submit supporting documentation concerning the number of shares you hold in the Fund and any transactions related thereto. In most cases, information contained in monthly statements, and confirmations of subscriptions and redemptions, will be sufficient. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

D. The requests are designed to provide the minimum amount of information necessary to process the claims. The Settlement Administrator may request additional information as required to calculate your losses efficiently and reliably. In some cases where the Settlement Administrator cannot perform the calculation accurately or at a reasonable cost to the Settlement Class with the information provided, the Settlement Administrator may condition acceptance of the Proof of Claim upon the production of additional information and/or the hiring of an accounting expert at the Claimant's cost.

E. By Order of the Court dated [●][●], 2011, your identity and contact information submitted on this Proof of Claim will be deemed "Confidential Protected Information" and will be kept strictly confidential and, absent further order of the Court based on a showing of necessity, will be shared by the Settlement Administrator only with counsel to the Lead Plaintiff and counsel to the Settling Defendants or filed under seal for purposes of enforcing the terms and requirements of this Settlement.



Official  
Office  
Use  
Only

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Must be Postmarked  
No Later Than  
\_\_\_\_\_, 2011

*Davis v. Benbassat et al. – Litigation Claim Forms*  
Master File No. \_\_\_\_\_

**PROOF OF CLAIM, RELEASE AND ASSIGNMENT**

Please Type or Print in the Boxes Below  
Do NOT use Red Ink, Pencil, or Staples

**PART I: CLAIMANT IDENTIFICATION**

Last Name [ ] M.I. [ ] First Name [ ]

Last Name (Co-Beneficial Owner) [ ] First Name (Co-Beneficial Owner) [ ]

IRA  Joint Tenancy  Employee  Individual  Other \_\_\_\_\_

Company Name (Beneficial Owner - If Claimant is not an Individual) or Custodian Name if an IRA (specify) [ ]

Trustee/Asset Manager/Nominee/Record Owner's Name (if Different from Beneficial Owner Listed Above) [ ]

Account#/Fund# (Not Necessary for Individual Filers) [ ]

Taxpayer Identification Number [ ] — [ ] or Social Security Number (if any) [ ] — [ ] — [ ]

Telephone Number (Work) [ ] — [ ] — [ ] Telephone Number (Home) [ ] — [ ] — [ ]

Country Code [ ] International Telephone Number [ ]

Email Address [ ]

**MAILING INFORMATION**

Address [ ]

Address [ ]

City [ ] State [ ] Zip Code [ ] — [ ]

Foreign Province [ ] Foreign Postal Code [ ] Foreign Country Name/Abbreviation [ ]

FOR CLAIMS PROCESSING ONLY: OB [ ] CB [ ]  ATP  BE  FL  OP  KE  DR  ME  RE  EM  ND  SH [ ] M M / [ ] D D / [ ] Y Y Y Y FOR CLAIMS PROCESSING ONLY



**PART II. SCHEDULE OF HOLDINGS IN THE FUND**  
**USD CLASS SHARES (\$)**

If you purchased shares through more than one account with a registered shareholder, please complete a separate Schedule in the same format as below for each account. If the transactions were denominated in Euros (EUR Class Shares) please proceed to Part III.

A. **SUBSCRIPTIONS:** Please use the Schedule provided below to list in chronological order the date and amount of each SUBSCRIPTION made into the Fund. In addition, please provide copies of supporting documentation evidencing these transactions. Please list subscriptions of Thema (May 9, 1996 – December 10, 2008, inclusive).

<b>SUBSCRIPTIONS</b>			Aggregate Amount Invested (Excluding Commissions, Taxes and Fees)		Proof Enclosed?
Date(s) of Subscription (List Chronologically)	Number of Shares Purchased		Please round off to the nearest whole dollar		
M M / D D / Y Y			\$		
1. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
2. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
3. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
4. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
5. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N

B. **REDEMPTIONS, SALES OR TRANSFERS:** Please use the Schedule provided below to list in chronological order the date and amount of each REDEMPTION, SALE or TRANSFER made from the Fund. In addition, please provide copies of supporting documentation evidencing these transactions. Please list redemptions, sales or transfers of Thema (May 9, 1996 – December 10, 2008, inclusive).

<b>REDEMPTIONS, SALES OR TRANSFERS</b>			Aggregate Amount Redeemed, Sold or Transferred (Excluding Commissions, Taxes and Fees)		Proof Enclosed?
Date(s) of Redemption, Sale or Transfer (List Chronologically)	Number of Shares Redeemed, Sold or Transferred		Please round off to the nearest whole dollar		
M M / D D / Y Y			\$		
1. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
2. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
3. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
4. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
5. <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>	<input type="text"/>		\$	<input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N

C. **ENDING BALANCE OF SHARES HELD:** Number of shares held in the Fund as of December 10, 2008.

Proof Enclosed?  
 Y  
 N

D. **ENDING BALANCE OF SHARES HELD:** Number of shares held in the Fund as of the Present date (if different).

Proof Enclosed?  
 Y  
 N

*If you require additional space, attach extra schedules in the same format as above. Sign and print your name on each additional page.*  
**YOU MUST READ AND SIGN THE RELEASE AND ASSIGNMENT ON PAGE 8. FAILURE TO SIGN THE RELEASE AND ASSIGNMENT MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.**



**PART III. SCHEDULE OF HOLDINGS IN THE FUND**  
**EUR CLASS SHARES (€)**

If you purchased shares through more than one account with a registered shareholder, please complete a separate Schedule in the same format as below for each account. If the transactions were denominated in United States Dollars (USD Class Shares) please proceed to Part II.

A. **SUBSCRIPTIONS:** Please use the Schedule provided below to list in chronological order the date and amount of each SUBSCRIPTION made into the Fund. In addition, please provide copies of supporting documentation evidencing these transactions. Please list subscriptions of Thema (May 9, 1996 – December 10, 2008, inclusive).

<b>SUBSCRIPTIONS</b>				Aggregate Amount Invested (Excluding Commissions, Taxes and Fees)	Proof Enclosed?
Date(s) of Subscription (List Chronologically)			Number of Shares Purchased	<i>Please round off to the nearest whole dollar</i>	
M	M	D D	Y Y		
1.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
2.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
3.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
4.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
5.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N

B. **REDEMPTIONS, SALES OR TRANSFERS:** Please use the Schedule provided below to list in chronological order the date and amount of each REDEMPTION, SALE or TRANSFER made from the Fund. In addition, please provide copies of supporting documentation evidencing these transactions. Please list redemptions, sales or transfers of Thema (May 9, 1996 – December 10, 2008, inclusive).

<b>REDEMPTIONS, SALES OR TRANSFERS</b>				Aggregate Amount Redeemed, Sold or Transferred	Proof Enclosed?
Date(s) of Redemption, Sale or Transfer (List Chronologically)			Number of Shares Redeemed, Sold or Transferred	<i>Please round off to the nearest whole dollar</i>	
M	M	D D	Y Y		
1.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
2.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
3.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
4.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N
5.	<input type="text"/>	<input type="text"/>	<input type="text"/>	€ <input type="text"/>	<input type="radio"/> Y <input type="radio"/> N

C. **ENDING BALANCE OF SHARES HELD:** Number of shares held in the Fund as of December 10, 2008.

Proof  
Enclosed?  
 Y  
 N

D. **ENDING BALANCE OF SHARES HELD:** Number of shares held in the Fund as of the Present date (if different).

Proof  
Enclosed?  
 Y  
 N

*If you require additional space, attach extra schedules in the same format as above. Sign and print your name on each additional page.*  
**YOU MUST READ AND SIGN THE RELEASE AND ASSIGNMENT ON PAGE 8. FAILURE TO SIGN THE RELEASE AND ASSIGNMENT MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.**



#### PART IV. DEFINITIONS AND RELEASE

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, discharge and release in regards to the "Released Parties" all "Released Claims," including "Unknown Claims," as contained in the Stipulation of Partial Settlement dated [●][●], 2011 and defined below.

2. I (We) hereby acknowledge that I (we) will not be entitled to receive recovery in any other action against any of the Released Parties based on or arising out of the Released Claims.

3. This release shall be of no force or effect unless and until the Court gives final approval of the Settlement and the Effective Date of such Settlement occurs.

4. "Released Parties" means HSBC Institutional Trust Services (Ireland) Ltd., HSBC Securities Services (Ireland) Ltd., HSBC Bank USA, N.A. and HSBC Holdings plc (collectively, the "Settling Defendants"), as well as their current and former subsidiaries, parents, principals, direct or indirect affiliates, including without limitation HSBC Bank USA, N.A. and HSBC Bank plc, general or limited partners or partnerships, successors and predecessors, heirs, assigns, officers, directors, agents, employees, fiduciaries, and attorneys.

5. "Released Parties" shall not include the Non-Settling Defendants in the Action except for any acts or omissions within the course of any former employment with a Settling Defendant. The Non-Settling Defendants currently named in the Amended Complaints are Alberto Benbassat, Stéphane Benbassat, Genevalor Benbassat & Cie, Gerald J.P. Brady, John Holliwell, Sonja Kohn, Daniel Morrissey, Peter Scheithauer, David T. Smith, Werner Tripolt, Bank Medici AG, Unicredit SPA, PricewaterhouseCoopers International Ltd., PricewaterhouseCoopers (Dublin), PricewaterhouseCoopers LLP, PricewaterhouseCoopers Bermuda, Thema Asset Management Limited, Thema International Fund plc, BA Worldwide Fund Management Limited, Peter Madoff, Andrew Madoff, the Estate of Mark Madoff, William Fry, JP Morgan Chase & Co., and the Bank of New York Mellon.

6. "Released Claims" means all claims, counterclaims, rights, causes of action, or liabilities of every nature and description, whether known or Unknown (as defined herein), whether arising under federal, state, common or foreign law, that were or could have been asserted in this Action or any other action in the United States or elsewhere in any jurisdiction throughout the world in which the Released Parties are domiciled or otherwise subject to jurisdiction, by any Settlement Class Member, that arise out of, are based upon, or related to the allegations, transactions, facts, matters, or occurrences set forth or referred to in any of the complaints filed in the Action, or that would be barred by *res judicata* or *collateral estoppel* if the claims asserted in the Action had been fully litigated on the merits to a final judgment in favor of the party against whom such claims were brought.

7. "Released Claims" does not include claims, rights or causes of action or liabilities whatsoever related to the enforcement of the Settlement, including, without limitation, any of the terms of the Stipulation or orders or judgments issued by the courts in connection with the Settlement or any claims asserted or that could be asserted against the Non-Settling Defendants.

8. "Unknown Claims" means any and all Released Claims which any of the Lead Plaintiff, Settlement Class Members or Settling Defendants does not know or suspect to exist in his, her or its favor as of the Effective Date and which, if known by him, her or it, might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released Claims, including any Unknown Claims, the parties stipulate and agree that upon the Effective Date, the Lead Plaintiff and the Settling Defendants shall expressly waive, and each Settlement Class Member shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights and benefits conferred by any law of any state of the United States, any principle of common law or any law of any foreign state, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Lead Plaintiff, Settlement Class Members, and current and former owners of shares in the Fund (on behalf of themselves and the Fund) may hereafter discover facts in addition to or different from those any of them now knows or believes to be true with respect to the subject matter of the Released Claims, but the Lead Plaintiff shall expressly have, and each Settlement Class Member and current or former owner of shares in the Fund (on behalf of themselves and the Fund) shall be deemed to have and by operation of Judgment shall have, fully, finally and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff and Settling Defendants acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and was a key element of the Settlement.





## PART V. DEFINITIONS AND ASSIGNMENTS

### A. Assignments to Settling Defendants of Certain Interests

1. I (We) hereby irrevocably assign and convey to the Settling Defendants all of my (our) interest in any recovery by or benefit accruing to the Fund or any distribution or payment arising out of the same on account of current or future litigation by the Fund against any of the Settling Defendants or any of their affiliates, including without limitation the Fund's claims against HSBC Institutional Trust Services (Ireland) Limited in *Thema Int'l Fund plc v. HSBC Institutional Trust Services (Ireland) Ltd.*, Record Nos. 2008/10983P, 2009/565TP and 2009/566TP (H. Ct.), which is now pending in the Irish High Court – Commercial Division.

2. I (We) hereby further delegate to the Settling Defendants, to the full extent permitted by applicable law, the power and right to act on my (our) behalf in effectuating this assignment and in all matters relating to any current or future litigation by the Fund against any of the Settling Defendants.

### B. Assignment by Claimants of Their Claims Against Non-Settling Defendants to the Lead Plaintiff

3. I (We) hereby irrevocably assign and convey to Lead Plaintiff Neville Seymour Davis the right to pursue and litigate on my (our) behalf and for my (our) benefit, any and all claims I (we) possess against the Non-Settling Defendants and their affiliates, parents, related companies, executives and directors, and any other person or entity arising out of, based upon, or relating to the allegations, transactions, facts, matters or occurrences set forth or referred to in the Amended Complaint or the Proposed Amended Complaint in any domestic or foreign forum.

4. I (We) hereby further delegate to Lead Plaintiff Neville Seymour Davis, to the fullest extent permitted by applicable law, the power and right to act on my (our) behalf in effectuating this assignment and in all matters relating to any current or future litigation by Lead Plaintiff relating to the assigned claims.

5. I (We) do hereby release the Lead Plaintiff and his agents from any and all claims, damages, demands, liabilities, losses, costs, expenses and attorneys' fees arising out of, based upon, or relating to their actions or conduct relating to the assigned claims, excluding only claims for lack of loyalty or good faith.

## PART VI. REPRESENTATIONS AND SIGNATURE

6. I (We) hereby warrant and represent that I (we) submit this Proof of Claim under the terms of the Stipulation of Partial Settlement described in the Notice of Pendency and Proposed Settlement of Class Action, Motion for Attorneys' Fees and Expenses, and Hearing.

7. I (We) am (are) a Settlement Class Member as defined in the Notice, that I am (we are) not one of the persons or entities excluded from the Settlement Class, <sup>1</sup> that I am (we are) not acting on behalf of any such excluded person or entity, that I (we) have not requested to be excluded from the Settlement Class, and that I (we) believe that I am (we are) eligible to receive a distribution from the Net Settlement Fund under the terms and conditions of the Plan of Allocation as set forth in the Notice.

8. I (We) hereby warrant and represent that I (we) submit to the jurisdiction of the United States District Court for the Southern District of New York solely with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the release and assignment set forth herein and any judgments and orders which may be entered in the Action. I (We) further acknowledge that I (we) am (are) bound by and subject to the terms of any final Judgment that may be entered in the Action.

9. I (We) hereby warrant and represent that I (we) have included information about all of my (our) holdings in the Fund and all of my (our) transactions relating to those holdings in the Fund. I (We) further agree to furnish additional information to the Settlement Administrator to support this claim if required to do so.

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1. Excluded from the Settlement Class are all Defendants in the Action, and each of their officers and directors, as well as their families and affiliates, as well as legal representatives, heirs, successors and assigns of any excluded person or entity; provided, however, that any affiliate of the Settling Defendants acting as agent or nominee for a beneficial owner of shares of the Fund who is not a person or entity described above shall be deemed to be a Settlement Class Member.



I (WE) DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT ALL OF THE FOREGOING INFORMATION SUPPLIED ON THIS PROOF OF CLAIM, RELEASE AND ASSIGNMENT FORM BY THE UNDERSIGNED IS TRUE AND CORRECT.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_  
(Month/Year) (City/State/Country)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g.,  
Beneficial Owner, Executor or Administrator)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g.,  
Beneficial Owner, Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.  
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and declaration.
2. Remember to attach supporting documentation, if available.
3. Do not send original stock certificates.
4. Keep a copy of your claim form and all supporting documentation for your records.
5. If you desire an acknowledgment of receipt of your claim form please send it Certified Mail, Return Receipt Requested.
6. If you move, please send the Settlement Administrator your new address.

