OFFICE OF THE ATTORNEY GENERAL
BUREAU OF SECURITIES
STATE OF NEW JERSEY
153 HALSEY STREET
P.O. BOX 47029
NEWARK, NEW JERSEY 07101

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BUREAU OF SECURITIES
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IN THE MATTER OF:

Merrill Lynch, Pierce, Fenner & Smith Incorporated

CRD #7691.

CONSENT ORDER

BEFORE MARC B. MINOR, BUREAU CHIEF

Pursuant to the authority granted to the Chief of the New Jersey Bureau of Securities ("Bureau Chief") by the Uniform Securities Law (1997), N.J.S.A. 49:3-47 et seq. ("Securities Law"), and after investigation, review, and due consideration of the facts and statutory provisions set forth below, the Bureau Chief has determined that civil monetary penalties and additional monetary and other remedies be assessed against Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch").

WHEREAS, the New Jersey Bureau of Securities (the "Bureau") is the State agency with the responsibility to administer and enforce the Securities Law; and

WHEREAS, N.J.S.A. 49:3-67 authorizes the Bureau Chief from time to time to issue such Orders as are necessary to carry out the provisions of the Securities Law, upon a finding that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the provisions of the Securities Law; and

WHEREAS, Merrill Lynch is a broker-dealer registered in the state of New Jersey; and

WHEREAS, coordinated investigations into Merrill Lynch's activities in connection with its marketing and sale of financial instruments known as auction rate securities ("ARS") to retail and other customers have been conducted by a multistate task force; and

WHEREAS, Merrill Lynch has cooperated with regulators conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigations; and

WHEREAS, Merrill Lynch has advised regulators of its agreement to resolve the investigations relating to its marketing and sale of ARS in accordance with the terms specified in this Consent Order; and

WHEREAS, Merrill Lynch agrees to implement certain changes with respect to its marketing and sale of ARS, and to make certain payments in accordance with the terms of this Consent Order; and

WHEREAS, Merrill Lynch elects to permanently waive any right to a hearing and appeal under N.J.S.A. 52:14B-1 et seq. with respect to this Consent Order; and

WHEREAS, solely for the purposes of terminating the multistate task force investigations, including the investigation by the Bureau, and in settlement of the issues contained in this Consent Order, Merrill Lynch, without admitting or denying the Findings of Facts and Conclusions of Law contained in this Consent Order, and without an adjudication of any issue of law or fact, consents to the entry of this Consent Order.

Accordingly, Merrill Lynch waives the following rights:

a. To be afforded an opportunity for hearing on the Bureau Chief's findings and conclusions of law in this Consent Order after reasonable notice within the meaning of N.J.S.A. 49:3-58(c)(2); and

b. To seek judicial review of, or otherwise challenge or contend, the validity of this Consent Order; and

WHEREAS, the provisions set forth in this Consent Order constitute the entire agreement between the Bureau and Merrill Lynch, and shall supersede any conflicting provisions contained in the Settlement Term Sheet between the North American Securities Administrators Association and Merrill Lynch dated August 21, 2008.

FINDINGS OF FACT

The Bureau Chief makes the following findings of fact:

1. Merrill Lynch admits the jurisdiction of the Bureau, neither admits nor denies the findings of fact and conclusions of law contained in this Consent Order, and consents to the entry of this Consent Order by the Bureau.

Background Mechanics of Auction Rate Securities

2. ARS as a general term refers to long-term debt or equity instruments tied to short term interest rates that are reset periodically through an auction process.

3. At auction, ARS trade at par, with the yield of the instruments being adjusted by the movements of interest rates set by the Dutch auction.

4. In the Dutch auction, a security holder had three options, the holder may: (1) hold; (2) purchase or sell; or (3) purchase and hold at rate.

5. Investors looking to acquire ARS bid into the auction at the rate and quantity that they were willing to hold the securities.

6. Orders for the available quantity of ARS are then filled, starting with the lowest bid rate up until all the shares offered for sale in the auction are allocated.

7. The rate at which the final share from the auction is allocated is the clearing rate, and sets the rate to be paid for the entire issue until the next auction.

8. If there are not enough purchasers the auction fails, no shares change hands, and the rate resets to a rate that is prescribed in the instrument's offering documents.

Merrill Lynch Marketed and Sold Auction Rate Securities as Safe, Liquid Short Term Investments

Merrill Lynch Marketed Auction Rate Securities as Safe, Liquid Investments

9. Merrill Lynch marketed and sold ARS as money market like instruments, which were safe and liquid.

10. Merrill Lynch additionally used research pieces to market ARS to customers.

11. Financial advisers ("FAs") would often forward Merrill Lynch marketing pieces to customers to reassure them of the safety and value of the instruments.

12. FAs who sold ARS were not required to provide customers with disclosures; instead customers would receive trade confirmations directing customers to where they could access Merrill Lynch's "Auction Rate Practices and Procedures."

13. On March 15, 2006, Merrill Lynch ended its practice of sending ARS purchasers a "Master Purchasers Letter." The Master Purchasers Letter was a disclosure document that all purchasers of ARS had been required to sign and return to Merrill Lynch.

14. Merrill Lynch's policies and procedures did disclose some important elements of its ARS program, including: (i) Merrill Lynch plays multiple roles in the ARS market, (ii) Merrill Lynch's interest may differ from those of its clients who purchased ARS, (iii)

Merrill Lynch is permitted but not obligated to submit orders for its own account and routinely does, and (iv) a purchaser's ability to sell the purchaser's ARS may be limited.

15. Yet, since Merrill Lynch FAs were not required to affirmatively disclose these practices prior to selling a client ARS, purchasers were largely unaware of Merrill Lynch's practices in supporting its ARS program.

16. Merrill Lynch did not undertake any analysis of whether any customers actually went to the website discussing its practices and procedures to review them.

Merrill Lynch Used AAA Ratings as a Selling Point for Auction Rate Securities Even After it had Allowed Certain AAA Rated Auction Rate Securities to Fail

17. The fact that its ARS carried a AAA rating was an important marketing point for Merrill Lynch. The AAA rating on ARS was routinely touted in marketing materials, as well as research pieces that discussed ARS and their safety.

18. Marketing materials produced by the ARS desk ("Auction Desk") promoted ARS as follows:

- **Auction Market Securities provide many advantages for investors**
  - Large and liquid market with over $306 billion currently outstanding
  - High quality credits with over 92% of the market rated AAA
  - Incremental yield to comparable securities such as commercial paper and money market funds
  - Taxable, tax advantaged and tax exempt investment options

19. The AAA rating is a long term credit rating.

20. The AAA rating on Merrill Lynch's ARS do not speak to an investor's ability to liquidate the instrument through auction at par.

21. A number of the collateralized debt obligations and other auction rate securities underwritten and offered by Merrill Lynch carried the AAA rating from major rating agencies.

22. In August 2007, as described below, Merrill Lynch ceased supporting the auctions of a number of its AAA rated action rate securities.

23. Those securities became illiquid and subsequently lost most of their market value.

24. Despite the fact that Merrill Lynch allowed a number of AAA auction-rate securities to fail in August 2007, subsequent to August 2007, Merrill continued to use the AAA rating as a selling point for auction rate securities.

25. Merrill Lynch was aware — yet did not disclose to investors — that certain auction rate securities retained their AAA rating after their auctions had failed.

26. Merrill Lynch was aware — yet did not disclose to investors — that the AAA rating did not provide protection against Merrill Lynch deciding to no longer support its auction program.

27. Nonetheless, Merrill Lynch relied heavily on the AAA rating to convince investors the auction rate securities it sold were safe and principal protected.

Merrill Lynch's Auction Rate Securities Program Stands in Contrast to its Representations to Customers

28. Merrill Lynch's ARS program was funded by issuers of ARS, who paid Merrill Lynch fees to underwrite securities and remarket them.

29. The ARS market allowed issuers to achieve long-term financing at short-term rates.

30. The Merrill Lynch ARS program had four branches, an investment bank that underwrote ARS, the ARS desk that acted as a remarketing agent for the securities, a

sales force that sold ARS to retail and other clients, and a research division that assisted the ARS desk in placing ARS.

31. The ARS that Merrill Lynch underwrote and sold to its clients consisted of auction preferred shares ("APS"), with perpetual maturity, with dividends that reset every 7 to 35 days at auction, or long-term debt instruments, issued by municipalities and student loan organizations with maturities of 20-40 years and interest rates that reset through the same auction process.

32. Due to the upward sloping yield curve, issuers of long-term instruments typically have to pay higher interest rates.

33. By supporting the auction mechanism, both in its role as a remarketing agent and as a purchaser of ARS at auction to avoid failures, Merrill Lynch allowed issuers to have long-term financing at short-term rates.

34. Purchasers of ARS were willing to accept short-term rates because they believed they would have access to their principal on short-term notice at the next auction, and they would receive a slightly higher rate than a money market fund because they would have to wait until the next auction to access their money.

35. This belief was cultivated by Merrill Lynch and other broker-dealers who used their own capital to ensure auctions did not fail, and generally touted the 20-year track record of very rare failures creating the impression with investors that there was a deep liquid market for ARS.

36. In fact, due to the practice of Merrill Lynch and other broker-dealers of placing support bids, for the 20 years prior to August of 2007 there had been only a handful of failed auctions that prevented investors from accessing their principal.

Merrill Lynch Generated Significant Fees by Underwriting Auction Rate Securities with Constrictive Maximum Rates and Selling them to Clients

Merrill Lynch Generated Significant Fees Underwriting Auction Rate Securities and Distributing Them to Clients

37. The investment bank at Merrill Lynch generated significant fees from underwriting new issuances of ARS. From 2001 through 2008, Merrill Lynch underwrote approximately $13 billion of APS, earning $130 million in underwriting fees.

38. In order to help move new issues, Merrill Lynch awarded FAs who placed new ARS issues with placement credits.

Merrill Lynch Underwrote Auction Rate Securities With Restrictive Maximum Rates, Which Allowed The Securities To Achieve AAA Ratings

39. Upon information and belief 92% of the auction rate securities that Merrill Lynch underwrote received a AAA rating from rating agencies such as Fitch and Moody's, and 97% had ratings of AA or better.

40. AAA ratings from agencies such as Fitch and Moody's signify the rating agencies' assessment that there is a high likelihood the security will pay interest or dividends as well as principal when due in a timely manner.

41. Maximum rate provisions place a ceiling on the rate of interest at which an auction can clear, and additionally provide the rate the issuer must pay should auctions fail.

42. When evaluating whether an issuer could make payments as due on its ARS, rating agencies reviewed the terms of the instrument to determine how much interest it may be obligated to pay. The maximum rate places an absolute cap on the interest - or dividend - the instrument will pay, restricting its potential obligations, therefore making it easier for the instrument to achieve a AAA rating.

43. Once Merrill Lynch stopped placing support bids in the auctions for which it was the lead broker-dealer, there were auction failures across its program.

44. When auctions fail the rate resets to the maximum rate.

45. The ARS with high maximum rates, typically municipal auction rate certificates ("ARCS") with maximum rates in the range of 12-15%, have drawn investor interest and have cleared without Merrill Lynch's support.

46. The ARS with low maximum rates, typically taxable and tax-exempt APS with maximum rates in the range of 3-5%, have not drawn investor interest and without Merrill Lynch's support have continued to fail, leaving investors with illiquid instruments.

Merrill Lynch Additionally Received Fees to Remarket the Auction Rate Securities It Underwrote

47. When Merrill Lynch underwrote an issue of ARS, it typically served as the broker-dealer or remarketing agent for the issue.

48. Merrill Lynch would typically receive a fee of 25 basis points ("bps") of the value of the ARS for which it acted as remarketing agent.

49. Merrill Lynch would share a portion of this fee with FAs in order to incentivize them to place clients into ARS.

50. Prior to every auction for which Merrill Lynch was the sole or lead broker-dealer, Merrill Lynch would provide "price talk," a range of bids provided to FAs indicating the interest rate at which Merrill Lynch expected auctions to clear.

51. All ARS for which Merrill Lynch acted as sole broker-dealer were placed through Merrill Lynch FAs.

52. Under Merrill Lynch's ARS program the ARS desk, acting as remarketing agent, had the option but not the obligation to bid in auctions.

53. Until August of 2007 Merrill Lynch had a policy of placing support bids into every auction for which it was sole or lead broker-dealer.

54. In August of 2007 Merrill Lynch withdrew its support for certain ARS backed by collateralized debt obligations.

55. When placing a support bid, Merrill Lynch would bid for the entire notional value of the issue being auctioned, regardless of the size or volume of buy, sell, or hold orders Merrill Lynch had received.

56. By placing support bids for the entire notional value of the issue being auctioned, Merrill Lynch ensured that no auctions in its ARS program would fail.

57. Merrill Lynch often set the rate at which the auctions would clear with its support bids.

58. For the period of January 3, 2006, through May 27, 2008, 5,892 auctions for which Merrill Lynch was the sole or lead broker-dealer would have failed but for Merrill Lynch's support bid.

59. Investors were not provided with information about the volume of shares that moved at auction.

60. Investors were not provided with information about the level of support from Merrill Lynch that was required to clear the auction.

61. Investors were not informed of how many ARS Merrill Lynch was carrying on its own inventory as a result of supporting auctions.

Auction Rate Securities Inventory Concerns at Merrill Lynch

Weakness in the Credit Markets Initiated Inventory Concerns in the Summer of 2007

62. Beginning in late July 2007, certain negative market influences surrounding collateralized debt obligations ("CDOs") and collateralized loan obligations ("CLOs") as well as a credit crunch began to negatively impact Merrill Lynch's auction market business.

63. As investors began selling these ARS due to concerns about their credit quality (despite the fact that many were AAA rated), Merrill Lynch purchased ARS into its own inventory to ensure those auctions did not fail.

64. At a certain point, Merrill Lynch decided to limit the amount of inventory of these instruments it was taking on and ceased submitting support bids, thus allowing the auctions to fail.

65. Merrill Lynch FAs began to seek answers to questions concerning ARS as early as August 7, 2007.

66. Merrill Lynch FAs from all over the United States sent emails and made telephone calls to request information from the Global Markets & Investment Banking staff managing the Merrill Lynch Auction Trading Desk.

67. The Auction Desk and the Financial Products Group, along with several of the supposedly independent research analysts for closed-end funds and Fixed Income/Cash, organized and participated in sales calls during the second and third week of August 2007 in an effort to clear auctions, reduce the rates of important issuers, and maintain a strong interest in ARS among the Merrill Lynch FAs all over the country.

Communications with Issuers and Others Expressing Concern About the Auction Markets

68. As early as August 3, 2007, senior management of Merrill Lynch requested a sample term sheet for auction market preferred shares ("AMPS") to understand the liquidity and downgrade risk.

69. In August 2007, representatives from major issuers in the closed-end fund investment market were also trying to get a sense of the risks and demand reductions for their preferred shares.

70. None of these growing risks about weak demand in the ARS market were disclosed to Merrill Lynch clients during the third quarter of 2007.

71. Upon information and belief, Merrill Lynch began, in late 2007, discussing concerns about the auction markets with issuers.

Merrill Lynch Surpasses its Inventory Limit in September 2007, as ARS Market Conditions Worsened

72. In late September 2007, inventory levels rose significantly and the Auction Desk was fast approaching its inventory limit of $1 billion dollars.

73. In addition, Merrill Lynch had certain lenders that provided financing for its inventory of auction rate securities.

74. Those lenders had previously accepted auction rate securities as collateral for the loans.

75. In the Fall of 2007, certain of these lenders became uncomfortable with the liquidity of auction rate securities and ceased accepting them as collateral.

76. Merrill Lynch did not inform its retail and other customers, to whom it was marketing auction rate securities as principal protected cash-like instruments, that entities that financed its inventory no longer accepted certain auction rate securities (even some rated AAA) as collateral.

Merrill Lynch's Consolidated Effort to Reduce Inventory – A Three Pronged Approach

Calming Fears, Providing Assurances and Motivating Additional Sales of Auction Rate Securities Through Sales Calls with FAs

77. Just after the first hint of investor concern with the auction market, the Auction Desk and Sales and Trading immediately mobilized to stem the tide of negative news. Managers moved quickly to set up sales calls to provide assurances to FAs and to motivate future sales of ARS.

78. In late November and early December 2007, with inventory backing up and reaching new highs at Merrill Lynch, a decision was made to do another national sales

call. The formula was similar to the successful call made previously in August 2007. Auction Desk personnel were joined by a member or members of the Research Department to reassure and motivate FAs to concentrate on selling Auction Desk inventory.

79. During the call, there was no discussion regarding the risk of any type of auction failure, or the likelihood or possibility that any market dislocation could result in retail customers' cash becoming illiquid.

80. Moreover, there was no discussion about the possibility that Merrill Lynch could decide at any time to stop its support of the auction market or to otherwise withdraw from supporting the auctions that it sole managed or co-managed.

81. There was no mention of the fact that with the pressures that existed in the credit market since August 2007, any auction failure by any auction dealer could spread contagion to the rest of the market.

FA Incentives - Increased Production Credits Sales Drive

82. At various times during the second half of 2007, Merrill Lynch provided incentives in the form of enhanced production credits as a means of motivating FAs to sell ARS to customers and reduce Merrill Lynch's inventory. Typically, FAs earned 12.5 bps on an annualized basis for investments in ARS. FAs would then earn a percentage of the 12.5 bps according to a payout grid.

83. During periods where enhanced credits were awarded, FAs could earn as much as eight times that amount (or 100 bps) for sales of ARS. Other enhanced payouts could include payouts of 25 bps or 50 bps. Similar to regular production credits earned, FAs enhanced production credits would be applied to the grid resulting in FAs being paid a certain predetermined percentage of the enhanced production credit.

Coordination with Research

Proactive Involvement from the Supposedly Independent Research Department to Aid in Sales Efforts

84. Merrill Lynch's Research Department played a pivotal role in assisting sales of Auction Rate Securities.

85. On at least two occasions during the Fall of 2007, Sales and Trading and the Auction Desk made direct and specific requests for the Research Department to draft favorable research pieces regarding the auction market to assist in Sales.

Improper Information Sharing – Between Research and Sales and Trading

86. The task force's investigation revealed frequent communications among research, sales, and trading staff.

87. Merrill Lynch's Policy & Procedures Manual (the "Policies Manual") employs a so-called "Chinese Wall," which is designed to prevent "the misuse of material non-public information" and to prevent "even the appearance of impropriety."

88. The "Chinese Wall" is designed to "restrict and monitor the flow of information between the various areas of [Merrill Lynch] such as Global Research, Sales [and] Trading," among others "to avoid the misuse of such information and the appearance of impropriety as well as to manage potential conflicts of interest..."

89. Among those departments that constitute the "Private Side of the Wall" include: "Investment Banking, including Global Capital Markets and Financing (Equity Capital Markets and Debt Capital Markets)," and "other departments or individuals that regularly receive inside information," while the Research Division is on the "Public Side of the Wall."

90. Among the categories of information that cannot be discussed between Sales or Trading and Research are the levels or amounts of inventory that Merrill Lynch maintained for its own account.

91. Such information was discussed.

Improper Influence and Pressure over Supposedly Independent Research Personnel

92. Merrill Lynch permitted its Sales and Trading and Auction Desk personnel to have undue influence over its Research Department regarding its coverage of the auction market.

93. In addition to the direct requests of Sales and Trading and the Auction Desk to Research for positive published material related to the auction market, undue influence was also exercised over the content of the published research reports.

94. Other times, Auction Desk personnel attempted to directly influence how Research responded to FA questions during sales calls.

Events Leading to Merrill Lynch's Decision to Stop Broadly Supporting Its Auction Program

95. Concerns surrounding the auction market grew more ominous going into 2008 and Merrill Lynch's Auction Desk personnel began to brace for the worst.

96. Likewise, inventory concerns at Merrill Lynch continued.

97. On January 23, 2008, word began circulating among broker-dealers that Lehman Brothers had a number of auctions fail the previous day.

98. Concerns were not shared with FAs or retail customers.

99. Between the dates February 1, 2008 and February 8, 2008, Merrill Lynch staff wrote or contributed to approximately three published research pieces, including: Fixed Income Digest, "Preserve Income Lock in Yields"; Fixed Income Digest Supplement, "Auction Market Securities" and Auction Market Value Sheet, "Back to Basics In The Auction Market." Each of these publications continued to recommend that investors should feel confident about the auction market.

100. On or about February 1, 2008, Merrill Lynch's Research Department published a volume of its Fixed Income Digest, entitled "Preserve Income Lock in Yields." The cover page included a section entitled "Preserve Income." The last sentence of the section provided: "For funds that investors need to keep liquid, we continue to find the best value in auction market securities." Inside the research piece, there was a subheading: "For Cash Holdings: auction market securities," which recommended, "[n]aturally, most investors need to keep some portion of their portfolios in liquid cash-like instruments. We find auction market securities (AMS) to be better alternative than money funds for these purposes for investors with larger amounts to invest." The section was followed immediately by another section dedicated to: "Answering Your Questions About Auction Market Securities" which responded to common questions relating to the auction markets at the time.

101. On February 4, 2008, the Research Department re-published the "Answering Questions" piece on its own as a supplement to the Fixed Income Digest in part, because of questions the Research Department was getting calls and that FAs were likely having a problem locating the information in the otherwise lengthy February 1, 2008 publication.

102. On the evening of February 12, 2008, Merrill Lynch executives decided to cease supporting its auction rate securities program and intentionally allowed the vast majority of their auctions to fail the following day.

103. Merrill Lynch's decision to stop broadly supporting its auction program was made without any real consideration or analysis of its effect on retail and other investors holding the securities.

Merrill Lynch Marked Down Its Own Inventory of Auction Rate Securities, but did Not Mark Down the Estimated Value of the Auction Rate Securities on Its Clients' Account Statements

104. Merrill Lynch had previously marked down the value of its own inventory of auction rate securities, yet did not mark down the value of those same auction rate securities in its client statements.

105. According to client statements received by the task force, auction rate securities listed on client statements had not been marked down to reflect their illiquidity. Their "estimated market value" was still listed as 100 percent of par. Certain of the exact same instruments held by Merrill Lynch in its inventory had been marked down from par.

CONCLUSIONS OF LAW

Solely for the purpose of this Consent Order, and without admitting or denying the findings of fact and conclusion of law set forth herein, Merrill Lynch consents to the Bureau Chief making the following conclusions of law:

1. Merrill Lynch's conduct described above constitutes dishonest and unethical conduct in the securities business, pursuant to N.J.S.A. 49:3-58(a)(2)(vii).

2. Merrill Lynch's conduct described above constitutes a failure to reasonably supervise its agents, pursuant to N.J.S.A. 49:3-58(a)(2)(xi).

3. The activities set forth herein are grounds, pursuant to N.J.S.A. 49:3-58(a)(1), N.J.S.A. 49:3-58(a)(2)(vii), and N.J.S.A. 49:3-58(a)(2)(xi), for the initiation of administrative proceedings.

ORDER

On the basis of the Findings of Fact, Conclusions of Law, and Merrill Lynch's consent to the entry of this Consent Order,

It is on this 6th day of ~~FEBRUARY~~ APRIL 2010, HEREBY ORDERED:

1. This Consent Order concludes the investigation by the Bureau and any other action that the Bureau could commence under applicable New Jersey law on behalf of New Jersey as it relates to Merrill Lynch, relating to the marketing and sales of ARS by Merrill Lynch, provided however, that excluded from and not covered by this paragraph 1 are any claims by the Bureau arising from or relating to the "Order" provisions contained herein.

2. This Consent Order is entered into solely for the purpose of resolving the referenced multistate investigation, and is not intended to be used for any other purpose.

3. Merrill Lynch shall pay fines and/or penalties totaling $125 million (the "Total Penalty") to the Commonwealth of Massachusetts and the other states, which shall be allocated at the Commonwealth of Massachusetts and the other states' discretion, to resolve all underlying conduct relating to the sale of auction rate securities. Merrill Lynch shall pay $4,871,620.74 of the Total Penalty to the Bureau due and payable within ten days of the entry of this Consent Order to "State of New Jersey, Bureau of Securities," 153 Halsey Street, 6th Floor, Newark, New Jersey 07102, or to be mailed to "Bureau of Securities," P.O. Box 47029, Newark, New Jersey 07101. The civil monetary penalty payment shall be deposited in the Securities Enforcement Fund, pursuant to N.J.S.A. 49:3-66.1. In the event another state securities regulator determines not to accept Respondents' settlement offer, the total amount of the payment to the Bureau shall not be affected, and shall remain at $4,871,620.74.

4. Definitions and Buyback Offer. Merrill Lynch will provide liquidity to Eligible Investors by buying Eligible Auction Rate Securities that have failed at auction at least once between February 13, 2008, and the date of this offer, at par, in the manner described below.

"Eligible Auction Rate Securities," for purposes of this Consent Order, shall mean auction rate securities publicly issued by municipalities or closed-end funds or backed by student loans and purchased at Merrill Lynch on or before February 13, 2008. Notwithstanding any other provision, Eligible Auction Rate Securities shall not include privately issued or placed auction rate securities that are unregistered and/or offered pursuant to SEC Rule 144A, or other exemptions of the Securities Act of 1933.

"Eligible Investors," for purposes of this Settlement, shall mean:

(i) Natural persons (including their IRA accounts, testamentary trust and estate accounts, custodian UGMA and UTMA accounts, and guardianship accounts) who purchased Eligible Auction Rate Securities at Merrill Lynch:

(ii) All small business and not for profit clients in Merrill Lynch's Global Wealth Management Group who purchased Eligible Auction Rate Securities at Merrill Lynch that had $100 million or less in assets in their accounts with Merrill Lynch, net of margin loans, as of August 7, 2008, or, if the customer was not a customer of Merrill Lynch as of August 7, 2008, as of the date that the customer terminated its customer relationship with Merrill Lynch. Notwithstanding any other provision, "small business and not for profit clients" does not include broker-dealers or banks acting as conduits for their customers.

5. Tranche I Eligible Investors. No later than September 26, 2008, Merrill Lynch shall have offered to purchase at par, plus any accrued but unpaid interest or dividends, Eligible Auction Rate Securities for which auctions are not successfully auctioning from Eligible Investors who had less than $4 million in assets at Merrill Lynch as of August 7, 2008. Merrill Lynch's offer to purchase such securities from Eligible Investors will remain open from October 1, 2008, through January 15, 2010, and Merrill Lynch shall promptly purchase such securities from any Eligible Investor who accepts this offer between January 2, 2009, and January 15, 2010.

For purposes of this Settlement, legal entities forming an investment vehicle for closely related individuals, including but not limited to IRA accounts, Trusts, Family Limited Partnerships and other legal entities performing a similar function, charities and non-profits, and small businesses who had less than $4 million in assets at Merrill Lynch shall be covered by paragraph 5(i) above.

6. Tranche II Eligible Investors. No later than December 18, 2008, Merrill Lynch shall have offered to purchase at par, plus any accrued but unpaid interest or dividends, Eligible Auction Rate Securities from other Eligible Investors who purchased Eligible Auction Rate Securities from Merrill Lynch prior to February 13, 2008, and who had less than $100 million in assets at Merrill Lynch as of August 7, 2008.

Merrill Lynch's offer to purchase such securities from Eligible Investors shall remain open from January 2, 2009 through January 15, 2010, and Merrill Lynch shall promptly purchase such securities from any investor who accepts this offer between January 2, 2009, and January 15, 2010.

7. Asset Amounts. Merrill Lynch shall calculate investor asset amounts as of August 7, 2008, for all Eligible Investors with assets with Merrill Lynch as of that date. For Eligible Investors with no assets at Merrill Lynch as of that date, Merrill Lynch shall calculate investor asset amounts as of the date such investor removed their assets from Merrill Lynch.

8. Notice and Assistance. Merrill Lynch shall provide prompt notice to customers of the settlement terms, and Merrill Lynch shall establish a dedicated telephone assistance line, with appropriate staffing, to respond to questions from customers concerning the terms of the settlement.

9. Relief for Eligible Investors Who Sold Below Par. No later than October 1, 2008, any investor covered by paragraph 5 above that Merrill Lynch shall have reasonably identified who sold Eligible Auction Rate Securities below par between February 13, 2008, and October 1, 2008, shall be paid by Merrill Lynch the difference between par and the price at which such investor sold the Eligible Auction Rate Securities.

10. Consequential Damages Claims. No later than October 1, 2008, Merrill Lynch shall make reasonable efforts promptly to notify those Eligible Investors covered by paragraph 5 above who own Eligible Auction Rate Securities, pursuant to the terms of the settlement, that an independent arbitrator, under the auspices of the Financial Industry Regulatory Authority (FINRA), shall be available for the exclusive purpose of arbitrating any Eligible Investor's consequential-damages claim. Merrill Lynch shall consent to participate in the North American Securities Administrators Association's ("NASAA") Special Arbitration Procedures (the "SAP") established specifically for arbitrating any Eligible Investor's consequential damages claim arising from their inability to sell

Eligible Auction Rate Securities. Nothing in this Offer shall serve to limit or expand any party's rights or obligations as provided under the SAP. Arbitration shall be conducted before a single non-industry arbitrator and Merrill Lynch will pay all forum and filing fees.

Arbitrations asserting consequential damages of less than $1 million will be decided through a single chair-qualified public arbitrator who will be appointed through the FINRA list selection process for single arbitrator cases. In arbitrations where the consequential damages claimed are greater than or equal to $1 million, the parties can, by mutual agreement, expand the panel to include three public arbitrators who will be appointed through FINRA's list procedure.

Any Eligible Investors who choose to pursue such claims through the SAP shall bear the burden of proving that they suffered consequential damages and that such damages were caused by their inability to access funds invested in Eligible Auction Rate Securities at Merrill Lynch as of February 13, 2008. In the SAP, Merrill Lynch shall be able to defend itself against such claims; provided, however, that: Merrill Lynch shall not contest liability for the illiquidity of the underlying ARS position or use as part of its defense any decision by an Eligible Investor not to borrow money from Merrill Lynch. Special or punitive damages shall not be available in the SAP.[1]

All customers, including but not limited to Eligible Investors who avail themselves of the relief provided pursuant to this Order, may pursue any remedies against Merrill Lynch available under the law. However, Eligible Investors that elect to utilize

[1] However, it is agreed by the parties that "consequential damages" shall have a meaning separate and apart from "punitive or special damages." Under no circumstances should this provision be read to mean that a consequential damages claim may not be maintained due to any state law which may categorize consequential damages as a subset within punitive and/or special damages.

the SAP are limited to the remedies available in that process and may not bring or pursue a claim relating to Eligible Auction Rate Securities in another forum.

11. Institutional Investors Not Covered By paragraph 5 above. Merrill Lynch shall endeavor to continue to work with issuers and other interested parties, including regulatory and other authorities and industry participants, to expeditiously and on a best efforts basis provide liquidity solutions for investors who purchased Eligible Auction Rate Securities from Merrill Lynch and are not entitled to participate in the buyback described in paragraph 5 above (referred to herein as "Institutional Investors").

Beginning January 2, 2009, and then quarterly after that, Merrill Lynch shall submit a written report to a representative specified by NASAA outlining the efforts in which Merrill Lynch has engaged and the results of those efforts with respect to Merrill Lynch Institutional Investors' holdings in Eligible Auction Rate Securities. Merrill Lynch shall confer with the representative no less frequently than quarterly to discuss Merrill Lynch's progress to date. Such quarterly reports shall be submitted within 20 days following the end of each quarter and continue until no later than January 15, 2010. Following every quarterly report, the representative shall have the option of requiring a meeting between the State and Merrill Lynch to advise Merrill Lynch of any concerns and, in response, Merrill Lynch shall detail the steps that Merrill Lynch plans to implement to address such concerns. The reporting or meeting deadlines set forth above may be amended with written permission from the representative.

12. Relief for Municipal Issuers. Merrill Lynch shall refund refinancing fees to municipal auction rate issuers that issued such Eligible Auction Rate Securities in the initial primary market through Merrill Lynch between August 1, 2007, and February 13,

2008, and refinanced those securities through Merrill Lynch after February 13, 2008. Refinancing fees are those fees paid to Merrill Lynch in connecting with a refinancing and are exclusive of legal fees and any other fees or costs not paid to Merrill Lynch in connection with the transaction.

13. No Disqualification. The Consent Order entered pursuant to this offer hereby waives any disqualification contained in the laws of New Jersey, or rules or regulations thereunder, including any disqualifications from relying upon the registration exemptions or safe harbor provisions that Merrill Lynch or any of its affiliates may be subject to. The Consent Order entered pursuant to this offer also is not intended to subject Merrill Lynch or any of its affiliates to any disqualifications contained in the federal securities laws, the rules and regulations thereunder, the rules and regulations of self regulatory organizations or various states' or U.S. Territories' securities laws, including, without limitation, any disqualifications from relying upon the registration exemptions or safe harbor provisions. In addition, this Consent Order is not intended to form the basis for any such disqualifications.

14. Nothing herein shall preclude New Jersey, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations (collectively, "State Entities"), other than the Bureau and only to the extent set forth in paragraph 1 above, and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against Merrill Lynch in connection with certain auction rate securities sales practices at Merrill Lynch.

15. For any person or entity not a party to the Consent Order issued pursuant to this offer, this offer and the Consent Order do not limit or create any private rights or remedies against Merrill Lynch including, without limitation, the use of any e-mails or other documents of Merrill Lynch or of others for auction rate securities sales practices, limit or create liability of Merrill Lynch, or limit or create defenses of Merrill Lynch, to any claims.

16. In consideration of the Settlement the Bureau will:

a. Except as allowed by paragraph 17(b) below, terminate the investigation by the Bureau and any other action that the Bureau could commence on behalf of New Jersey as it relates to Merrill Lynch's underwriting, marketing, and sales of Eligible Auction Rate Securities, provided, however, that excluded from and not covered by this paragraph are any claims by the Bureau arising from or relating to the "Order" provisions contained herein.

b. Refrain from further investigation and from taking legal action against Merrill Lynch with respect to Institutional Investors until a date after December 31, 2009.

c. Not seek additional monetary penalties from Merrill Lynch relating to the issues raised by the Bureau relating to Merrill Lynch's marketing and sale of Eligible Auction Rate Securities to investors and the firm permitting trading in auction rates securities by any individuals affiliated with Merrill Lynch.

18. Failure to Comply With Terms of Settlement. If after this settlement is executed, Merrill Lynch fails to comply with any of the terms set forth herein, the State may institute an action to vacate this Consent Order. Upon issuance of an appropriate order,

after an opportunity for a fair hearing, a state may reinstitute the actions and investigations referenced in this Consent Order.

19. This Consent Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of New Jersey without regard to any choice of law principles.

20. This Consent Order shall be binding upon Merrill Lynch and its successors and assigns as well as to successors and assigns of relevant affiliates with respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

Merrill Lynch, Pierce, Fenner & Smith Incorporated hereby consents to the form and entry of this Consent Order without admitting or denying the findings of fact and conclusions of law set forth herein.

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: _____

DATED: March 8, 2010

Name: Joaquin M. Sena
Title: Associate General Counsel

NEW JERSEY BUREAU OF SECURITIES

By: _____

Marc B. Minor
Chief, Bureau of Securities

DATED: 4/6/10

CONSENT TO ENTRY OF CONSENT ORDER BY MERRILL LYNCH

Merrill Lynch hereby acknowledges that it has been served with a copy of this Consent Order, has read the foregoing Consent Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

Merrill Lynch admits the jurisdiction of the Bureau, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Consent Order; and consents to entry of this Consent Order by the Bureau as settlement of the issues contained in this Consent Order.

Merrill Lynch states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

Joaquin M. Sena represents that he is Associate General Counsel of Merrill Lynch and that, as such, has been authorized by Merrill Lynch to enter into this Consent Order for and on behalf of Merrill Lynch.

Merrill Lynch agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for any administrative monetary penalty that Merrill Lynch shall pay pursuant to this Consent Order.

Dated this 8th day of March, 2010.

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: Joaquin M. Sena

Title: Associate General Counsel

SUBSCRIBED AND SWORN TO before me this 8th day of March, 2010.

Notary Public

My commission expires:

MARIANNE BRETTON-GRANATOOR
NOTARY PUBLIC STATE OF NEW YORK
NO. 02BR4932444
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES MAY 02 2010