

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

In re	)	Civil Action No.
COLONIAL BANCGROUP, INC.	)	2:09-CV-00104-RDP-WC
SECURITIES LITIGATION	)	
	)	
	)	
	)	
	)	

**AMENDED AND RESTATED STIPULATION AND AGREEMENT OF  
SETTLEMENT WITH OFFICER AND DIRECTOR DEFENDANTS**

This amended and restated stipulation and agreement of settlement (the “Stipulation” or “Settlement”) is made and entered into by and between Lead Plaintiffs Arkansas Teacher Retirement System, State-Boston Retirement System, Norfolk County Retirement System and City of Brockton Retirement System (collectively, “Lead Plaintiffs”), on behalf of themselves and the putative Settlement Class (defined below), and the following individuals who are present, former and/or potential defendants in this Action: Robert E. Lowder, Sarah H. Moore, T. Brent Hicks, Lewis E. Beville, William Britton, Jerry J. Chesser, Augustus K. Clements, III, Robert S. Craft, Patrick F. Dye, Hubert L. Harris, Jr., Clinton O. Holdbrooks, Harold O. King, Deborah L. Linden, John Ed Mathison, Milton E. McGregor, John C.H. Miller, Jr., Joseph D. Mussafer, William E. Powell, III, James W. Rane, Simuel Sippial, Jr., Edward V. Welch, Sheila P. Moody and Kamal Hosein (collectively, the “Settling Defendants”).

**WHEREAS:**

A. This Stipulation amends and supersedes the prior Stipulation and Agreement of Settlement With Officer and Director Defendants, dated as of August 1, 2011.

B. All words or terms used herein that are capitalized shall have the meaning ascribed to those words or terms as set forth herein and in ¶ 1 hereof entitled “Definitions.”

C. Beginning in February 2009, a series of proposed class actions were filed against Colonial BancGroup, Inc. (“Colonial” or the “Company”), its officers and directors, and other defendants in the United States District Court for the Middle District of Alabama, Northern Division (the “Court”).

D. On May 7, 2009, the Court appointed Lead Plaintiffs and appointed Labaton Sucharow LLP as Lead Counsel and Thomas, Means, Gillis & Seay, P.C. as Liaison Counsel to represent the putative class.

E. On May 8, 2009, the Court issued an order consolidating all related cases into the present Action.

F. Lead Plaintiffs filed a Consolidated Class Action Complaint for Violations of the Federal Securities Laws (the “Complaint”) on June 22, 2009, asserting claims under the Securities Exchange Act of 1934 (the “Exchange Act”) and the Securities Act of 1933 (the “Securities Act”). The Exchange Act claims allege violations of the anti-fraud provisions of the securities laws arising from alleged misstatements and omissions made in connection with Colonial’s publicly-filed financials and other alleged misstatements made by Colonial’s senior officers. The Securities Act claims arise from a subordinated note offering and a stock offering conducted by the Company in March and April of 2008, respectively.

G. On August 25, 2009, Colonial filed for bankruptcy protection pursuant to Chapter 11 of Title 11 of the United States Code (“Bankruptcy Code”) in the United States Bankruptcy Court for the Middle District of Alabama (the “Bankruptcy Case”). The Court thereafter invited comment as to whether the Action should be stayed as a result. On September 25, 2009, Defendants began filing motions to dismiss the Complaint. In September 2009, the Court suspended further briefing on motions to dismiss pending the Court’s decision as to whether the

automatic bankruptcy stay should serve to stay the Action. On January 7, 2010, the Court ruled that the bankruptcy stay should not be extended to the Action, and the stay was lifted. The parties completed briefing the motions to dismiss in February 2010.

H. On May 14, 2010, the Court issued orders denying all Defendants' motions to dismiss and sustaining the Complaint.

I. On May 18, 2010, shortly after denying all Defendants' motions to dismiss, Judge Myron F. Thompson notified the parties that he had a disqualifying conflict and recused himself. The Action was stayed pending reassignment, and all Defendants moved for reconsideration of the denial of their motions to dismiss. On August 27, 2010, the Action was assigned to Judge R. David Proctor.

J. A status conference was held before the Court on December 15, 2010 in which the Court deemed moot the motions for reconsideration and instructed Lead Plaintiffs to file an amended complaint.

K. On April 29, 2011, Lead Plaintiffs filed the operative complaint in the Action, the First Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws (the "Amended Complaint").

L. On November 22 and December 2-3, 2010, Lead Plaintiffs and Defendants met with David Geronemus, Esq., a highly experienced mediator for JAMS, for lengthy in-person mediation sessions in an attempt to reach a settlement of the claims in this Action and related actions.

M. The mediations involved an extended effort to settle the litigations. These discussions did not result in the present Settlement, but were informative and helped bring about

the subsequent negotiations between Lead Plaintiffs and the Settling Defendants (the “Settling Parties”) that resulted in the Settlement.

N. Lead Plaintiffs, through Lead Counsel, conducted a thorough investigation relating to the claims, the defenses, and the underlying events and transactions that are the subject of the Action. This process included reviewing and analyzing: (i) investigative findings by the FDIC Office of the Inspector General and transcripts from the trial of Lee B. Farkas; (ii) Colonial’s filings with the Securities and Exchange Commission (the “SEC”); (iii) publicly available information concerning Defendants, including newspaper articles, online publications, stock price movement data, statements at analyst conferences, and Bloomberg reports; (iv) securities analyst reports; (v) press releases and media reports issued by Defendants; and (vi) the applicable law and accounting rules governing the claims and potential defenses. Lead Counsel also closely monitored Colonial’s bankruptcy proceeding and filings, identified more than 700 potential witnesses, contacted almost 80 potential witnesses, and consulted with an experienced damages expert.

O. The Settling Defendants have denied and continue to deny any liability under the U.S. securities laws or otherwise. The Settling Defendants have denied and continue to deny each of the claims alleged by Lead Plaintiffs on behalf of the Settlement Class, including all claims in the Amended Complaint.

P. This Stipulation, whether or not consummated, any proceedings relating to any settlement, or any of the terms of any settlement, whether or not consummated, shall in no event be construed as, or deemed to be evidence of, an admission or concession on the part of the Settling Parties with respect to any claim of any liability or damage whatsoever, or any infirmity in any defense that the Settling Defendants have or could have asserted. The Settling Defendants

are entering into this Settlement to eliminate the burden, expense, uncertainty, distraction and risk of further litigation.

Q. Lead Plaintiffs believe that the claims asserted in the Action have merit and that the evidence developed to date supports the claims asserted. However, Lead Plaintiffs and Lead Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against the Settling Defendants through trial and appeals. Lead Plaintiffs and Lead Counsel also have taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Action, as well as the difficulties and delays inherent in such litigation. Lead Counsel also are mindful of the inherent problems of proof and the possible defenses to the claims alleged in the Action. Based on their evaluation, Lead Plaintiffs and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial monetary benefits upon the Settlement Class and is in the best interests of Lead Plaintiffs and the Settlement Class.

**NOW THEREFORE**, without any concession by Lead Plaintiffs that the Action lacks merit, and without any concession by the Settling Defendants of any liability or wrongdoing or lack of merit in their defenses, it is hereby **STIPULATED AND AGREED**, by and among the Settling Parties to this Stipulation, through their respective attorneys, subject to approval by the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits flowing to the Settling Parties hereto, all Released Claims and all Released Defendants' Claims as against all Released Parties shall be compromised, settled, released and dismissed with prejudice, and without costs, upon and subject to the following terms and conditions:

**DEFINITIONS**

1. As used in this Stipulation, the following terms shall have the meanings set forth below:

(a) “Action” means *In re Colonial Bancgroup, Inc. Sec. Litig.*, No. 2:09-CV-00104-RDP-WC and all consolidated actions pending in the United States District Court for the Middle District of Alabama, Northern Division.

(b) “Authorized Claimant” means a Settlement Class Member who timely submits a valid Proof of Claim and Release form to the Claims Administrator that is accepted for payment by the Court.

(c) “Alternative Judgment” means a form of final judgment that may be entered by the Court herein but in a form other than the form of Judgment provided for in this Stipulation and where none of the parties hereto elect to terminate this Settlement by reason of such variance.

(d) “Bankruptcy Court” means the United States Bankruptcy Court for the Middle District of Alabama.

(e) “Bankruptcy Court Approval Order” means an order of the Bankruptcy Court (i) authorizing Federal Insurance Company and National Union Fire Insurance Company of Pittsburg, Pa., to the extent applicable and/or necessary, to fund the Settlement from the proceeds of their respective Insurance Policies (defined below) and (ii) modifying the automatic stay (§362 of the Bankruptcy Code), to the extent applicable and/or necessary, for the limited purpose of allowing the use of the insurance proceeds to fund the Settlement.

(f) “Claims Administrator” means the firm to be retained by Lead Counsel, subject to Court approval, to provide all notices approved by the Court to Settlement Class Members, process proofs of claim and administer the Settlement.

(g) “Colonial Securities” means: (i) the common stock of Colonial; (ii) Colonial’s common stock traceable to the Company’s April 23, 2008 stock offering pursuant to the Registration Statement and Prospectus filed with the Securities and Exchange Commission (the “Stock Offering”); and (iii) the \$250 million worth of Subordinated Notes due in 2038, paying 8.875% interest on a quarterly basis, pursuant or traceable to Colonial’s Form S-3/A Shelf Registration Statement and Prospectus dated November 12, 2004 and Form 424 (b)(2) Prospectus Supplement dated February 28, 2008 (the “Note Offering”).

(h) “Company” means Colonial BancGroup, Inc.

(i) “Defendants” means the Settling Defendants and the Non-Settling Defendants.

(j) “Court” means the United States District Court for the Middle District of Alabama, Northern Division.

(k) “Distribution Order” means an order of the Court approving the Claims Administrator’s administrative determinations concerning the acceptance and rejection of the claims submitted and approving any fees and expenses not previously paid, including the fees and expenses of the Claims Administrator and, if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants.

(l) “Effective Date” means the date upon which the Settlement shall become effective, as set forth in ¶ 37 below.

(m) “Escrow Account” means the separate interest-bearing escrow account at Citibank, N.A., designated by Lead Counsel, into which the Settlement Amount is to be deposited for the benefit of the Settlement Class.

(n) “Escrow Agreement” means the agreement to be entered into by Citibank, N.A., Lead Counsel and Settling Defendants’ Counsel that shall govern the Escrow Account.

(o) “Final,” with respect to a court order, means the later of: (i) if there is an appeal from a court order, the date of final affirmance on appeal and the expiration of the time for any further judicial review whether by appeal, reconsideration or a petition for a writ of certiorari and, if certiorari is granted, the date of final affirmance of the order following review pursuant to the grant; or (ii) the date of final dismissal of any appeal from the order or the final dismissal of any proceeding on *certiorari* to review the order; or (iii) the expiration of the time for the filing or noticing of any appeal from the order, which is thirty (30) calendar days after the order is entered on the issuing court’s docket (or, if the date for taking an appeal or seeking review of the order shall be extended beyond this time by order of the issuing court, by operation of law or otherwise, or if such extension is requested, the date of expiration of any extension if any appeal or review is not sought). However, any appeal or proceeding seeking subsequent judicial review pertaining solely to the Plan of Allocation of the Net Settlement Fund, or to the Court’s award of attorneys’ fees or expenses, shall not in any way delay or affect the time set forth above for the Judgment, Alternative Judgment, or Bankruptcy Court Approval Order to become Final, or otherwise preclude the Judgment, Alternative Judgment, or Bankruptcy Court Approval Order from becoming Final.

(p) “Insurance Policies” means the applicable policies written by the Settling Defendants’ Insurance Carriers (defined below).

(q) “Judgment” means the proposed judgment to be entered approving the Settlement substantially in the form attached hereto as Exhibit B.



(r) “Lead Plaintiffs” means Arkansas Teacher Retirement System, State-Boston Retirement System, Norfolk County Retirement System and City of Brockton Retirement System.

(s) “Lead Counsel” means the law firm of Labaton Sucharow LLP.

(t) “Net Settlement Fund” means the Settlement Fund less: (i) Court-awarded attorneys’ fees and expenses; (ii) Notice and Administration Expenses; (iii) Taxes; and (iv) any other fees or expenses approved by the Court, including any award to the Lead Plaintiffs for reasonable costs and expenses (including lost wages) pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §78u-4 (the “PSLRA”).

(u) “Non-Settling Defendants” means PricewaterhouseCoopers LLP, Banc of America Securities LLC, Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, Deutsche Bank Securities Inc., Morgan Keegan & Company, Inc., Morgan Stanley & Co., Inc., RBC Dain Rauscher Inc., Stifel, Nicolaus & Company, Inc., SunTrust Robinson Humphrey, Inc., UBS Securities LLC and Wachovia Capital Markets, LLC.

(v) “Notice” means the Notice of Pendency of Class Action and Proposed Partial Settlement, which is to be sent to members of the Settlement Class and, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-1 to Exhibit A hereto.

(w) “Notice and Administration Expenses” means all fees and expenses incurred in connection with providing notice to the Settlement Class and the administration of the Settlement, including but not limited to: (i) providing notice of the proposed Settlement by mail, publication and other means; (ii) receiving and reviewing claims; (iii) applying the Plan of Allocation; (iv) communicating with Persons regarding the proposed Settlement and claims

administration process; (v) distributing the proceeds of the Settlement; and (vii) fees related to the Escrow Account and investment of the Settlement Fund.

(x) “Person” means an individual, corporation (including all divisions and subsidiaries), general or limited partnership, association, joint stock company, joint venture, limited liability company, professional corporation, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity.

(y) “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice to the Settlement Class of the pendency of the Action and of the Settlement, which, subject to the approval of the Court, shall be substantially in the form attached hereto as Exhibit A.

(z) “Proof of Claim” means the Proof of Claim and Release form for submitting a claim, which shall be substantially in the form attached as Exhibit A-2 to Exhibit A hereto.

(aa) “Released Claims” means all claims, whether known or Unknown (as defined below), whether arising out of or relating to, directly or indirectly, the purchase or acquisition of Colonial Securities during the Settlement Class Period and the facts, matters, allegations, transactions, events, disclosures, statements, acts or omissions that have been or could have been asserted by any member of the Settlement Class in the Action against the Released Defendant Parties, which includes, for the avoidance of doubt, claims previously brought against the Company in the Action. For the avoidance of doubt, Released Claims do not include: (i) claims to enforce the Settlement; (ii) any claim by the Federal Deposit Insurance Corporation, whether as receiver for Colonial Bank or in its corporate capacity, or any claim by

any governmental or regulatory agency asserted in any criminal, administrative or civil action; (iii) claims or interests of any Class Member, including Lead Plaintiffs, in the Bankruptcy Case solely in connection with their status as holders of Colonial Securities in the event there is a future distribution in the Bankruptcy Case; or (iv) claims against any Non-Settling Defendant.

(bb) “Released Defendants’ Claims” means all claims, whether known or Unknown (as defined below), whether arising under federal, state, common or foreign law, or any other law, that the Settling Defendants asserted, or could have asserted, against any of the Released Plaintiff Parties that arise out of or relate in any way to the institution, prosecution, or settlement of the Action (other than claims to enforce the Settlement).

(cc) “Released Defendant Parties” means the Company; the Settling Defendants; the respective attorneys for the Released Defendant Parties; and the present and former principals, agents, insurers, auditors, attorneys, predecessors, successors, parents, subsidiaries, divisions, joint ventures, general or limited partners or partnerships, limited liability companies, directors, officers, general counsels, or employees of the Company; but specifically does not include any Non-Settling Defendant.

(dd) “Released Parties” means the Released Defendant Parties and the Released Plaintiff Parties collectively.

(ee) “Released Plaintiff Parties” means each and every Lead Plaintiff, Settlement Class Member, Lead Counsel, and their partners, employees, attorneys, predecessors, successors or assigns and heirs.

(ff) “Settlement” means the resolution of the Action as against the Settling Defendants in accordance with the terms and provisions of this Stipulation.

(gg) “Settlement Amount” means the total principal amount of \$10,500,000 in cash.

(hh) “Settlement Class” or “Settlement Class Member” means all persons or entities who purchased Colonial Securities during the Settlement Class Period, and were allegedly damaged thereby. Excluded from the Settlement Class are: the current and former defendants in the Action; the current and former officers and directors of the Company; members of the immediate families of the current and former defendants in the Action; the subsidiaries and affiliates of the Company; any entity in which the current and former defendants in the Action have or had a controlling interest; and the legal representatives, heirs, successors or assigns of any excluded person. Also excluded from the Settlement Class will be any person who timely and validly seeks exclusion from the Settlement Class.

(ii) “Settlement Class Period” mean the period between April 18, 2007 and August 6, 2009, inclusive.

(jj) “Settlement Fund” means: (i) \$10,500,000 in cash to be paid on behalf of the Settling Defendants into the Escrow Account (as set forth in ¶ 6 below) and (ii) any earnings on any monies held in the Escrow Account.

(kk) “Settlement Hearing” means the hearing to be held by the Court to determine whether the proposed Settlement is fair, reasonable and adequate and should be approved.

(ll) “Settling Defendants” means Robert E. Lowder, Sarah H. Moore, T. Brent Hicks, Lewis E. Beville, William Britton, Jerry J. Chesser, Augustus K. Clements, III, Robert S. Craft, Patrick F. Dye, Hubert L. Harris, Jr., Clinton O. Holdbrooks, Harold O. King, Deborah L. Linden, John Ed Mathison, Milton E. McGregor, John C.H. Miller, Jr., Joseph D. Mussafer,

William E. Powell, III, James W. Rane, Simuel Sippial, Jr., Edward V. Welch, Sheila P. Moody and Kamal Hosein.

(mm) “Settling Defendants’ Counsel” means the law firms of Lightfoot, Franklin & White, LLC; Waller Lansden Dortch & Davis LLP; Copeland, Franco, Screws & Gill, P.A. and Gray, Langford, Sapp, McGowan, Gray & Nathanson.

(nn) “Settling Defendants’ Insurance Carriers” means Federal Insurance Company and National Union Fire Insurance Company of Pittsburgh, Pa.

(oo) “Settling Party” or “Settling Parties” means Settling Defendants and Lead Plaintiffs, on behalf of themselves and the other Settlement Class Members.

(pp) “Stipulation” means this Amended and Restated Stipulation and Agreement of Settlement With Officer and Director Defendants.

(qq) “Summary Notice” means the Summary Notice of Pendency of Class Action and Proposed Partial Settlement for publication, which shall be substantially in the form attached as Exhibit A-3 to Exhibit A hereto.

(rr) “Taxes” means all taxes on the income of the Settlement Fund and expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, interest, penalties and the expenses of tax attorneys and accountants).

(ss) “Unknown Claims” means any and all Released Claims, which the Lead Plaintiffs or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Defendant Parties, and any Released Defendants’ Claims that the Settling Defendants do not know or suspect to exist in his, her or its favor at the time of the release of the Released Plaintiff Parties, 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 and Released Defendants' Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiffs and the Settling Defendants, shall expressly, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment or Alternative Judgment shall have, expressly waived and relinquished any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, 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.**

Lead Plaintiffs, the other Settlement Class Members or the Settling Defendants may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims and the Released Defendants' Claims, but Lead Plaintiffs and the Settling Defendants shall expressly, fully, finally and forever settle and release, and each other Settlement Class Member shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment or Alternative Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims and Released Defendants' Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs and the Settling Defendants acknowledge, and other Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a key element of the Settlement.

**SCOPE AND EFFECT OF SETTLEMENT**

2. The obligations incurred pursuant to this Stipulation are: (a) subject to (i) entry of the Bankruptcy Court Approval Order and such Order becoming Final and (ii) approval by the Court and the Judgment reflecting such approval becoming Final; and (b) in full and final disposition of the Action with respect to the Released Parties and any and all Released Claims and Released Defendants' Claims.

3. For purposes of this Settlement only, the Settling Parties agree to: (i) certification of the Action as a class action, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3), on behalf of the Settlement Class as defined in ¶ 1(hh); (ii) the certification of Lead Plaintiffs and, at the discretion of Lead Plaintiffs, additional named plaintiffs The Horace F. Moyer and Joan M. Moyer Living Trust and City of Worcester as Class Representatives for the Settlement Class; and (iii) the appointment of Lead Counsel as Class Counsel for the Settlement Class.

4. By operation of the Judgment or Alternative Judgment, as of the Effective Date, and subject to ¶¶ 38-43, Lead Plaintiffs and each and every other Settlement Class Member on behalf of themselves and each of their respective heirs, executors, trustees, administrators, predecessors, successors and assigns, shall be deemed to have fully, finally and forever waived, released, discharged and dismissed each and every one of the Released Claims against each and every one of the Released Defendant Parties and shall forever be barred and enjoined from commencing, instituting, prosecuting or maintaining any of the Released Claims against any of the Released Defendant Parties.

5. By operation of the Judgment or Alternative Judgment, as of the Effective Date, the Settling Defendants, on behalf of themselves and each of their respective heirs, executors, trustees, administrators, predecessors, successors and assigns by operation of the Judgment or Alternative Judgment, shall be deemed to have fully, finally and forever waived, released,

discharged and dismissed each and every one of the Released Defendants' Claims, as against each and every one of the Released Plaintiff Parties and shall forever be barred and enjoined from commencing, instituting, prosecuting or maintaining any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

### **THE SETTLEMENT CONSIDERATION**

6. In full settlement of the claims asserted in the Action against the Settling Defendants and in consideration of the releases specified in ¶¶ 2-5, above, the Settling Defendants shall authorize the Settling Defendants' Insurance Carriers to pay and the Settling Defendants' Insurance Carriers shall pay the sum of \$10,500,000 in cash into the Escrow Account within fifteen (15) business days after both the following two conditions have been satisfied: (i) the Court enters the Preliminary Approval Order pursuant to the terms of the Stipulation; and (ii) the Bankruptcy Court enters the Bankruptcy Court Approval Order, on motion by the Settling Defendants (the "Bankruptcy Court Motion").

7. Once the Court enters the Preliminary Approval Order pursuant to the terms of the Stipulation, the Settling Defendants shall promptly submit the Bankruptcy Court Motion to the Bankruptcy Court. The form and content of the Bankruptcy Court Motion shall be subject to the review and consent of Lead Counsel, which consent shall not be unreasonably withheld. The seeking of the Bankruptcy Court Approval Order shall under no circumstances be deemed an admission or concession that the proceeds of the Insurance Policies are property of Colonial's bankruptcy estate.

8. With the sole exception of the Settling Defendants' obligation to authorize payment and the Settling Defendants' Insurance Carriers' obligation to cause payments to be made into the Escrow Account as provided for in ¶ 6, the Settling Defendants and Settling



Defendants' Counsel shall have no liability with respect to the Escrow Account or the monies maintained in the Escrow Account, including, without limitation, any liability related to any fees, Taxes, investment decisions, maintenance, supervision or distributions of any portion of the Settlement Amount.

**USE AND TAX TREATMENT OF SETTLEMENT FUND**

9. The Settlement Fund shall be used: (i) to pay any Taxes; (ii) to pay Notice and Administration Expenses; (iii) to pay any attorneys' fees and expenses awarded by the Court; (iv) to pay any costs and expenses allowed by the PSLRA and awarded to the Lead Plaintiffs by the Court; and (v) to pay the claims of Authorized Claimants.

10. The Net Settlement Fund shall be distributed to Authorized Claimants as provided in ¶¶ 22-33 hereof. The Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held in the Escrow Account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be disbursed or returned, pursuant to this Stipulation, and/or further order of the Court. The Escrow Agent shall invest the funds held in the Escrow Account in instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or an agency thereof, and the proceeds of these instruments shall be reinvested as they mature in similar instruments at the then-current market rates. The Settling Defendants and Settling Defendants' Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions executed by the Escrow Agent.

11. After the Settlement Amount has been paid into the Escrow Account in accordance with ¶ 6 above, the Settling Parties agree to treat the Settlement Fund, as a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1. In addition, Lead Counsel shall

timely make, or cause to be made, such elections as necessary or advisable to carry out the provisions of this paragraph, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Lead Counsel to timely and properly prepare and deliver, or cause to be prepared and delivered, the necessary documentation for signature by all necessary parties, and thereafter take all such actions as may be necessary or appropriate to cause the appropriate filing to occur.

(a) For the purposes of Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. § 1.468B promulgated thereunder, the “administrator” shall be Lead Counsel or its successors, who shall timely and properly file, or cause to be filed, all informational and other tax returns necessary or advisable with respect to the interest earned on the fund deposited in the Escrow Account (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)). Such returns (as well as the election described above) shall be consistent with this subparagraph and in all events shall reflect that all taxes (including any estimated taxes, interest, or penalties) on the income earned on the funds deposited in the Escrow Account shall be paid out of such funds as provided in subparagraph (c) hereof.

(b) All Taxes shall be paid solely out of the Escrow Account. In all events, the Settling Defendants and Settling Defendants’ Counsel shall have no liability or responsibility whatsoever for the Taxes or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority. In the event any Taxes are owed by any of the Settling Defendants on any interest earned on the funds on deposit in the Escrow Account, such amounts shall also be paid out of the Escrow Account. Any taxes or tax expenses

owed on any interest earned on the Settlement Amount prior to its transfer to the Escrow Account shall be the sole responsibility of the entities that make the deposit.

(c) Taxes shall be treated as, and considered to be, a cost of administration of the Settlement and shall be timely paid, or caused to be paid, by Lead Counsel out of the Escrow Account without prior order from the Court or approval by the Settling Defendants, and Lead Counsel shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). The Settling Parties agree to cooperate with Lead Counsel, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this paragraph.

12. This is not a claims-made settlement. As of the Effective Date, Settling Defendants and/or such other persons or entities funding the Settlement on the Settling Defendants' behalf shall not have any right to the return of the Settlement Fund or any portion thereof for any reason.

#### **ATTORNEYS' FEES AND EXPENSES**

13. Lead Counsel will apply to the Court for an award from the Settlement Fund: of (i) attorneys' fees; and (ii) reimbursement of litigation expenses incurred in prosecuting the Action, plus any interest on such amounts at the same rate and for the same periods as earned by the Settlement Fund ("Fee and Expense Application"). The Settling Defendants will take no position with respect to the Fee and Expense Application.

14. The amount of attorneys' fees and expenses awarded by the Court is within the sole discretion of the Court. Any attorneys' fees and expenses awarded by the Court shall be paid from the Settlement Fund to Lead Counsel immediately after entry of the Order awarding such attorneys' fees and expenses, notwithstanding the existence of any timely filed objections

thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. Lead Counsel's ability to withdraw awarded fees and expenses from the Settlement Fund is also subject to the terms and conditions of the Escrow Agreement.

15. Any payment of attorneys' fees and litigation expenses pursuant to ¶¶ 13-14 above shall be subject to Lead Counsel's obligation to make refunds or repayments to the Settlement Fund of any paid amounts, plus accrued interest at the same net rate as is earned by the Settlement Fund, if the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or litigation expenses is reduced or reversed by final non-appealable court order. Lead Counsel shall make the appropriate refund or repayment in full no later than ten (10) business days after receiving from Settling Defendants' Counsel notice from a court of appropriate jurisdiction of the termination of the Settlement or notice of any reduction of the award of attorneys' fees and/or litigation expenses by final non-appealable court order.

16. With the sole exception of the Settling Defendants' obligation to authorize payment and the Settling Defendants' Insurance Carriers' obligation to cause payments to be made into the Escrow Account as provided for in ¶ 6, the Settling Defendants shall have no responsibility for, and no liability whatsoever with respect to, any payment to Lead Counsel or any other plaintiffs' counsel that may occur at any time.

17. The Settling Defendants shall have no responsibility for, and no liability whatsoever with respect to, the allocation of any attorneys' fees or expenses among any plaintiffs' counsel, or any other Person who may assert some claim thereto, or any fee or expense awards the Court may make in the Action.

18. The Settling Defendants shall have no responsibility for, and no liability whatsoever with respect to, any attorneys' fees, costs, or expenses incurred by or on behalf of the Settlement Class Members, whether or not paid from the Escrow Account.

19. The procedure for and the allowance or disallowance by the Court of any Fee and Expense Application are not part of the Settlement set forth in this Stipulation, and are separate from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to any Fee and Expense Application, including an award of attorneys' fees in an amount less than the amount requested by Lead Counsel, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment or Alternative Judgment approving the Stipulation and the Settlement set forth herein, including, but not limited to, the release, discharge, and relinquishment of the Released Claims against the Released Defendant Parties, or any other orders entered pursuant to the Stipulation.

#### **ADMINISTRATION EXPENSES**

20. Except as otherwise provided herein, the Settlement Fund shall be held in the Escrow Account until the Effective Date.

21. However, prior to the Effective Date, without further approval from the Settling Defendants or further order of the Court or the Bankruptcy Court, Lead Counsel may expend up to \$200,000 from the Settlement Fund to pay Notice and Administration Expenses actually incurred, and Taxes may be paid as incurred. Such costs and expenses shall include, without limitation, the actual costs of publication, printing and mailing the Notice, reimbursements to nominee owners for forwarding the Notice to their beneficial owners, the administrative

expenses incurred and fees charged by the Claims Administrator in connection with providing Notice and processing the submitted claims, and the fees, if any, related to the Escrow Account and the investment of the Settlement Fund. After the Effective Date, without further approval of the Settling Defendants or further order of the Court or the Bankruptcy Court, Notice and Administration Expenses may be paid as incurred.

**DISTRIBUTION TO AUTHORIZED CLAIMANTS**

22. Lead Counsel will apply to the Court for a Distribution Order, on notice to Settling Defendants' Counsel, approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the claims submitted herein, and, if the Effective Date has occurred, directing the payment of the Net Settlement Fund to Authorized Claimants.

23. The Claims Administrator shall administer the Settlement under Lead Counsel's supervision and subject to the jurisdiction of the Court. Except as stated in ¶¶ 27 and 43 hereof, the Settling Defendants and Settling Defendants' Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to the administration of the Settlement or the actions or decisions of the Claims Administrator, and shall have no liability to the Settlement Class in connection with such administration.

24. The Claims Administrator shall determine each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Loss, as defined in the Plan of Allocation of Net Settlement Fund (the "Plan of Allocation") included in the Notice, or in such other plan of allocation as the Court may approve.

25. The Settling Defendants will take no position with respect to the Plan of Allocation. The Plan of Allocation is a matter separate and apart from the proposed Settlement

between Lead Plaintiffs and the Settling Defendants, and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the proposed Settlement. The Plan of Allocation is not a necessary term of this Stipulation and it is not a condition of this Stipulation that any particular plan of allocation be approved by the Court. Lead Plaintiffs and Lead Counsel may not cancel or terminate the Stipulation or the Settlement in accordance with ¶ 38 or otherwise based on the Court's or any appellate court's ruling with respect to the Plan of Allocation or any plan of allocation in the Action. The Settling Defendants and Settling Defendants' Counsel shall have no responsibility or liability for reviewing or challenging claims, the allocation of the Net Settlement Fund, or the distribution of the Net Settlement Fund.

#### **ADMINISTRATION OF THE SETTLEMENT**

26. Any member of the Settlement Class who fails to timely submit a valid Proof of Claim (substantially in the form of Exhibit A-2 to Exhibit A hereto) will not be entitled to receive any of the proceeds from the Net Settlement Fund, except as otherwise ordered by the Court, but will otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternative Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Defendant Parties concerning the Released Claims.

27. Lead Counsel shall be responsible for supervising the administration of the Settlement and disbursement of the Net Settlement Fund by the Claims Administrator. Lead Counsel shall have the right, but not the obligation, to advise the Claims Administrator to waive what Lead Counsel deems to be *de minimis* or formal or technical defects in any Proofs of Claim submitted. The Settling Defendants shall utilize their best efforts to have Colonial provide, or cause to be provided, to Lead Counsel, or the Claims Administrator, a list in electronic

searchable form of the names and last known addresses of the Persons who purchased Colonial Securities during the Settlement Class Period within ten (10) calendar days of execution of the Stipulation. The Settling Parties agree that any reasonable costs incurred in obtaining such shareholder lists are necessary in order to provide class notice and thus shall be paid out of the Settlement Fund. The Settling Defendants and Settling Defendants' Counsel shall have no liability, obligation or responsibility for the administration of the Settlement, the allocation of the Net Settlement Fund or reviewing or challenging of claims of members of the Settlement Class. Lead Counsel shall be solely responsible for designating the Claims Administrator, subject to approval by the Court.

28. For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

(a) Each Settlement Class Member shall be required to submit a Proof of Claim, substantially in the form attached hereto as Exhibit A-2 to Exhibit A, supported by such documents as are designated therein, including proof of the claimant's loss, or such other documents or proof as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable;

(b) All Proofs of Claim must be submitted by the date set by the Court in the Preliminary Approval Order and specified in the Notice, unless such deadline is extended by Lead Counsel in their discretion, or by Order of the Court. Any Settlement Class Member who fails to submit a Proof of Claim by such date shall be barred from receiving any distribution from the Net Settlement Fund or payment pursuant to this Stipulation (unless, by Order of the Court or the discretion of Lead Counsel, late-filed Proofs of Claim are accepted), but shall in all other



respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternative Judgment and the releases provided for herein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any Released Party concerning any Released Claim or Released Defendants' Claims. Provided that it is received before the motion for the Distribution Order is filed, a Proof of Claim shall be deemed to be submitted when mailed, if received with a postmark on the envelope and if mailed by first-class or overnight U.S. Mail and addressed in accordance with the instructions thereon. In all other cases, the Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator;

(c) Each Proof of Claim shall be submitted to and reviewed by the Claims Administrator, under the supervision of Lead Counsel, who shall determine in accordance with this Stipulation the extent, if any, to which each claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below;

(d) Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejecting a Proof of Claim in whole or in part, the Claims Administrator shall communicate with the claimant in writing to give the claimant the chance to remedy any curable deficiencies in the Proof of Claim submitted. The Claims Administrator, under supervision of Lead Counsel, shall notify, in a timely fashion and in writing, all claimants whose claims the Claims Administrator proposes to reject in whole or in part for curable deficiencies, setting forth the reasons therefor, and shall indicate in such notice that the claimant whose claim is to be rejected has the right to a review by the Court if the claimant so desires and complies with the requirements of subparagraph (e) below;

(e) If any claimant whose claim has been rejected in whole or in part desires to contest such rejection, the claimant must, within twenty (20) calendar days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the Court; and

(f) The administrative determinations of the Claims Administrator accepting and rejecting disputed claims shall be presented to the Court, on notice to Settling Defendants' Counsel, for approval by the Court in the Distribution Order.

29. Each claimant who submits a Proof of Claim form shall be deemed to have submitted to the jurisdiction of the Court with respect to the claimant's claim, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to the claimant's status as a Settlement Class Member and the validity and amount of the claimant's claim. In connection with processing the Proofs of Claim, no discovery shall be allowed on the merits of the Action or the Settlement.

30. Payment pursuant to the Distribution Order shall be deemed final and conclusive against all Settlement Class Members. All Settlement Class Members whose claims are not approved by the Court shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternative Judgment to be entered in the Action and the

releases provided for herein, and will be barred from bringing any action against the Released Defendant Parties concerning the Released Claims.

31. All proceedings with respect to the administration, processing and determination of claims described by ¶¶ 22 through 33 of this Stipulation and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court, but shall not in any event delay or affect the finality of the Judgment or Alternative Judgment.

32. No Person shall have any claim of any kind against the Released Defendant Parties or their counsel with respect to the matters set forth in this Section or any of its subsections (¶¶ 22 through 33).

33. No Person shall have any claim against the Lead Plaintiffs or their counsel (including Lead Counsel), or the Claims Administrator, or other agent designated by Lead Counsel, based on the distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

**TERMS OF THE PRELIMINARY APPROVAL ORDER**

34. Concurrently with their application for preliminary Court approval of the Settlement contemplated by this Stipulation and promptly upon execution of the Stipulation and Agreement of Settlement With Officer and Director Defendants, dated as of August 1, 2011, Lead Counsel and Settling Defendants' Counsel shall jointly apply to the Court for entry of the Preliminary Approval Order, which shall be substantially in the form annexed hereto as Exhibit A. The Preliminary Approval Order will, *inter alia*, set the date for the Settlement Hearing and prescribe the method for giving notice of the Settlement to the Settlement Class.

**TERMS OF THE JUDGMENT**

35. If the Settlement contemplated by this Stipulation is approved by the Court, Lead Counsel and Settling Defendants' Counsel shall jointly request that the Court enter a Judgment substantially in the form annexed hereto as Exhibit B.

36. The Settling Parties have negotiated the following bar order and judgment reduction provision to be included, in substantially the following form, in the Judgment or Alternative Judgment:

Pursuant to the PSLRA, 15 U.S.C. Sections 78u-4(f)(7)-(8), and applicable law, upon the Effective Date, the Court shall finally discharge all obligations to the Released Plaintiff Parties of the Settling Defendants arising out of the Action. The Court hereby bars all future claims for contribution and indemnification arising out of the Action by any person against the Settling Defendants, or by the Settling Defendants against any person, other than a person whose liability has been extinguished by the settlement of the Settling Defendants.

Any final verdict or Judgment obtained in this Action shall be reduced by the greater of (a) an amount that corresponds to the percentage of responsibility of the Settling Defendants; or (b) the Settlement Amount paid on behalf of the Settling Defendants.

**EFFECTIVE DATE OF SETTLEMENT, WAIVER OR TERMINATION**

37. The Effective Date of this Settlement shall be the date when all of the following shall have occurred:

(a) entry of the Preliminary Approval Order, which shall be in all material respects substantially in the form set forth in Exhibit A annexed hereto;

(b) the Bankruptcy Court Approval Order has been entered in the Bankruptcy Court and has become Final;

(c) payment of the Settlement Amount into the Escrow Account;

(d) approval by the Court of the Settlement, following notice to the Settlement Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and

(e) a Judgment, which shall be in all material respects substantially in the form set forth in Exhibit B annexed hereto, has been entered by the Court and has become Final; or in the event that an Alternative Judgment has been entered, that judgment has become Final.

38. The Settling Defendants and Lead Plaintiffs shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so (“Termination Notice”), through counsel, to all other Settling Parties hereto within fourteen (14) calendar days of: (a) the Court’s Final refusal to enter the Preliminary Approval Order in any material respect; (b) the Bankruptcy Court’s Final refusal to enter the Bankruptcy Court Approval Order in any material respect; (c) the Court’s Final refusal to approve this Stipulation or any material part of it; (d) the Court’s Final refusal to enter the Judgment in any material respect or an Alternative Judgment; or (e) the date upon which the Bankruptcy Court Approval Order, Judgment or Alternative Judgment is modified or reversed in any material respect by the United States District Court (as to the Bankruptcy Court Approval Order), the United States Court of Appeals or the Supreme Court of the United States. In the event any of the Court rulings referenced in this paragraph are deemed non-appealable, the fourteen (14) calendar day period referenced in this paragraph will begin to run upon entry of such Court ruling.

39. The Settling Defendants shall also have the right to withdraw from the Settlement in the event: (a) either Federal Insurance Company or National Union Fire Insurance Company of Pittsburg, Pa. fails to fund the Settlement Amount; or (b) the Termination Threshold (defined below) has been reached.

(a) Simultaneously herewith, Settling Defendants' Counsel and Lead Counsel are executing a confidential Supplemental Agreement Regarding Requests for Exclusion ("Supplemental Agreement"). The Supplemental Agreement sets forth certain conditions under which the Settling Defendants shall have the option (which option shall be exercised unanimously by the Settling Defendants) to terminate the Settlement and render this Stipulation null and void in the event that requests for exclusion from the Settlement Class exceed certain agreed-upon criteria (the "Termination Threshold"). The Settling Parties agree to maintain the confidentiality of the Termination Threshold in the Supplemental Agreement, which shall not be filed with the Court unless a dispute arises as to its terms, or as otherwise ordered by the Court, nor shall the Supplemental Agreement otherwise be disclosed unless ordered by the Court. If submission of the Supplemental Agreement is required for resolution of a dispute or is otherwise ordered by the Court, the Settling Parties will undertake to have the Termination Threshold submitted to the Court *in camera* or under seal.

(b) In the event of a termination of this Settlement pursuant to the Supplemental Agreement, this Stipulation shall become null and void and of no further force and effect, with the exception of the provisions of ¶ 45 which shall continue to apply.

40. In addition to all of the rights and remedies that the Lead Plaintiffs and Lead Counsel have under the terms of this Stipulation, they shall also have the right to terminate the Settlement in the event that the Settling Defendants do not authorize payment by the Settling Defendants' Insurance Carriers and/or the Settling Defendants' Insurance Carriers do not make the payments into the Escrow Account as provided for in ¶ 6 above, by providing written notice of their election to terminate to all other Settling Parties to this Stipulation and, thereafter, others fail to pay the Settlement Amount within fourteen (14) calendar days of such written notice.

41. If an option to withdraw from and terminate this Stipulation and Settlement arises under any of ¶¶ 38, 39 or 40 above: (i) neither the Settling Defendants nor Lead Plaintiffs will be required for any reason or under any circumstance to exercise that option; and (ii) any exercise of that option shall be made in good faith, but in the sole and unfettered discretion of the Settling Defendants or Lead Plaintiffs, as applicable.

42. Except as otherwise provided herein, in the event the Settlement is terminated or fails to become effective for any reason, then: the Settlement shall be without prejudice, and none of its terms, including, but not limited to, the certification of the Settlement Class, shall be effective or enforceable except as specifically provided herein; the Settling Parties to this Stipulation shall be deemed to have reverted to their respective litigation positions in the Action immediately prior to their execution of the Memorandum of Understanding (“MOU”) on May 24, 2011; and, except as otherwise expressly provided, the Settling Parties in the Action shall proceed in all respects as if this Stipulation and any related orders had not been entered. In such event, the MOU, this Stipulation or any aspect of the negotiations leading to this Stipulation, shall not be admissible in this Action and shall not be used by Lead Plaintiffs against the Settling Defendants or by the Settling Defendants against Lead Plaintiffs in any court filings, depositions, at trial or otherwise.

43. If the Settlement fails to become effective as defined herein or is terminated pursuant to the provisions of ¶¶ 38, 39 or 40 above, any portion of the Settlement Amount previously paid on behalf of or by the Settling Defendants, together with any interest earned thereon, less any Taxes paid or due, less Notice and Administration Expenses actually incurred and paid or payable from the Settlement Amount shall be returned to the entities that made the deposit(s) within ten (10) business days after written notification of such event. At the request of

Settling Defendants' Counsel, the Escrow Agent or its designee shall apply for any tax refund owed on the amounts in the Escrow Account and pay the proceeds, after any deduction of any fees or expenses incurred in connection with such application(s), for refund to the entities that made the deposit.

**NO ADMISSION OF WRONGDOING**

44. Except as set forth in ¶ 45 below, this Stipulation, whether or not consummated, and any negotiations, proceedings or agreements relating to the Stipulation, the Settlement, and any matters arising in connection with settlement negotiations, proceedings, or agreements, shall not be offered or received against the Settling Defendants for any purpose, and in particular:

(a) do not constitute, and shall not be offered or received against the Settling Defendants as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by the Settling Defendants with respect to the truth of any fact alleged by Lead Plaintiffs and the Settlement Class or the validity of any claim that has been or could have been asserted in the Action or in any litigation, including but not limited to the Released Claims, or of any liability, damages, negligence, fault or wrongdoing of the Settling Defendants;

(b) do not constitute, and shall not be offered or received against the Settling Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Settling Defendants, or against Lead Plaintiffs or any other members of the Settlement Class as evidence of any infirmity in the claims of Lead Plaintiffs or the other members of the Settlement Class;

(c) do not constitute, and shall not be offered or received against the Settling Defendants or against Lead Plaintiffs or any other members of the Settlement Class, as evidence



of a presumption, concession or admission with respect to any liability, damages, negligence, fault, infirmity or wrongdoing, or in any way referred to for any other reason against any of the Settling Parties to this Stipulation, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(d) do not constitute, and shall not be construed against the Settling Defendants, Lead Plaintiffs, or any other members of the Settlement Class, as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial;

(e) do not constitute, and shall not be construed as or received in evidence as, an admission, concession or presumption against Lead Plaintiffs or any other members of the Settlement Class or any of them that any of their claims are without merit or infirm or that damages recoverable under the Complaint would not have exceeded the Settlement Amount.

45. The Settling Defendants may file this Stipulation and/or the Judgment or Alternative Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim, or to effectuate the liability protection granted them under any applicable insurance policies. The Settling Parties may file this Stipulation and/or the Judgment or Alternative Judgment in any action that may be brought to enforce the terms of this Stipulation and/or the Judgment or Alternative Judgment. All Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

**MISCELLANEOUS PROVISIONS**

46. All of the exhibits to the Stipulation, except any Plan of Allocation, to the extent incorporated in those exhibits, are material and integral parts hereof and are fully incorporated herein by this reference.

47. If, before the Settlement become Final, any Settling Defendant files for protection under the Bankruptcy Code or any similar law or a trustee, receiver, conservator, or other fiduciary is appointed under Bankruptcy, or any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money or any portion thereof to the Settlement Fund by or on behalf of an individual Settling Defendant to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Settlement Fund by others, then, at the election of Lead Plaintiffs, the Settling Parties shall jointly move the Court to vacate and set aside the release given and the Judgment or Alternative Judgment entered in favor of that individual Settling Defendant and that Settling Defendant and the members of the Settlement Class shall be restored to their litigation positions immediately prior to the execution of the MOU. All releases and the Judgment or Alternative Judgment as to other individual Settling Defendants shall remain unaffected.

48. Lead Plaintiffs shall receive financial information from Settling Defendant Robert E. Lowder within fourteen (14) calendar days of the funding of the Settlement Amount and shall, within seven (7) calendar days of the receipt of the same, have the opportunity to pose up to 20 (including subparts) written follow-up questions to Mr. Lowder regarding that financial information. Mr. Lowder shall provide certified responses to those questions within fourteen (14) calendar days of receipt of same. Furthermore, should any absent Settlement Class Member object to the Settlement on the grounds that Mr. Lowder did not personally contribute to the

Settlement Fund, Lead Counsel may, at its option, depose Mr. Lowder for no more than three hours on issues related to his net worth and ability to pay; such deposition shall be held at least three (3) calendar days prior to the deadline for the submission of Lead Plaintiffs' reply brief in further support of the Settlement.

49. The Settling Parties to this Stipulation intend the Settlement of the Action to be the full, final and complete resolution of all claims asserted or which could have been asserted by the Settling Parties with respect to the Released Claims and Released Defendants' Claims. Accordingly, Lead Plaintiffs and the Settling Defendants, agree not to assert in any forum that the Action was brought, prosecuted or defended in bad faith or without a reasonable basis. The Settling Parties and their counsel agree that each has complied fully with Rule 11 of the Federal Rules of Civil Procedure in connection with the maintenance, prosecution, defense and settlement of the Action and shall not make any applications for sanctions, pursuant to Rule 11 or other court rule or statute, with respect to any claims or defenses in this Action. The Settling Defendants and Lead Plaintiffs agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length in good faith by the Settling Parties and their respective counsel, and reflect a settlement that was reached voluntarily based upon adequate information and after consultation with experienced legal counsel.

50. This Stipulation may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Settling Parties hereto or their successors.

51. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

52. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the

purpose of entering orders providing for awards of attorneys' fees and any expenses, and implementing and enforcing the terms of this Stipulation.

53. The waiver by one Settling Party of any breach of this Stipulation by any other Settling Party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

54. This Stipulation, its exhibits and the Supplemental Agreement constitute the entire agreement among the Settling Parties hereto concerning the Settlement of the Action as against the Settling Defendants, and no representations, warranties, or inducements have been made by any party hereto concerning this Stipulation and its exhibits other than those contained and memorialized in such documents.

55. Nothing in the Stipulation, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, attorney-client privilege, joint defense privilege, or work product protection.

56. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Settling Parties to this Stipulation shall exchange among themselves original signed counterparts. Signatures sent by facsimile or pdf'd via e-mail shall be deemed originals.

57. This Stipulation shall be binding when signed, but the Settlement shall be effective only on the condition that the Effective Date occurs.

58. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties hereto.

59. The construction, interpretation, operation, effect and validity of this Stipulation, and all documents necessary to effectuate it, shall be governed by the internal laws of the State of

Alabama without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

60. This Stipulation shall not be construed more strictly against one Settling Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations among the Settling Parties, and all Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

61. Lead Counsel, on behalf of the Settlement Class Members, warrants and represents that it is expressly authorized by Lead Plaintiffs to take all appropriate action required or permitted to be taken by the Settlement Class Members pursuant to the Stipulation to effectuate its terms and also is expressly authorized by Lead Plaintiffs to enter into any modifications or amendments to the Stipulation on behalf of the Settlement Class Members that it deems appropriate.

62. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related settlement documents, warrant and represent that they have the full authority to do so, and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

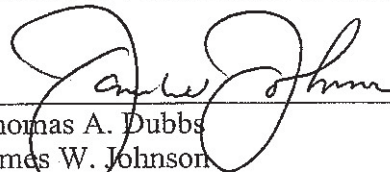
63. The Settling Parties and their counsel agree to cooperate fully with one another in promptly applying for preliminary approval by the Court of the Settlement and for the scheduling of a hearing for consideration of final approval of the Settlement and Lead Counsel's application for an award of attorneys' fees and expenses. The Settling Parties and their counsel further agree to promptly apply to the Bankruptcy Court for the Bankruptcy Court Approval Order, consummate the Settlement in accordance with its terms, and to promptly agree upon and

execute all such other documentation as reasonably may be required to obtain final approval by the Court of the Settlement.

64. Except as otherwise provided herein, each party shall bear its own costs.

**IN WITNESS WHEREOF**, the Settling Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, as of September 14, 2011.

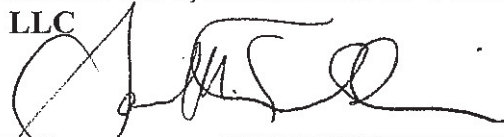
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*Lead Counsel for Lead Plaintiffs*

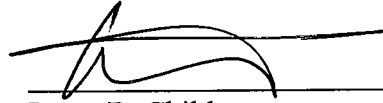
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Mussafer, Powell, Rane, Sippial and Welch*

# EXHIBIT A



IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

In re  
COLONIAL BANCGROUP, INC.  
SECURITIES LITIGATION

)  
) Civil Action No.  
) 2:09-CV-00104-RDP-WC  
)  
) **[PROPOSED] REVISED**  
) **PRELIMINARY APPROVAL**  
) **ORDER PROVIDING FOR NOTICE**  
) **AND HEARING IN CONNECTION**  
) **WITH PROPOSED PARTIAL CLASS**  
) **ACTION SETTLEMENT**  
)

WHEREAS, as of September 14, 2011, Lead Plaintiffs Arkansas Teacher Retirement System, State-Boston Retirement System, Norfolk County Retirement System and City of Brockton Retirement System (collectively, “Lead Plaintiffs”), on behalf of themselves and the putative Settlement Class, and the Settling Defendants<sup>1</sup> entered into an Amended and Restated Stipulation and Agreement of Settlement with Officer and Director Defendants (the “Stipulation”) in the above-titled litigation (the “Action”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits thereto, sets forth the terms and conditions of the proposed partial settlement of the claims alleged in the First Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws (the “Amended Complaint”) against the Settling Defendants on the merits and with prejudice (the “Settlement”); and the Court having read and considered the Stipulation and the accompanying exhibits; and the Settling Parties to the Stipulation having consented to the entry

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<sup>1</sup> The Settling Defendants are Robert E. Lowder, Sarah H. Moore, T. Brent Hicks, Lewis E. Beville, William Britton, Jerry J. Chesser, Augustus K. Clements, III, Robert S. Craft, Patrick F. Dye, Hubert L. Harris, Jr., Clinton O. Holdbrooks, Harold O. King, Deborah L. Linden, John Ed Mathison, Milton E. McGregor, John C.H. Miller, Jr., Joseph D. Mussafer, William E. Powell, III, James W. Rane, Simuel Sippial, Jr., Edward V. Welch, Sheila P. Moody and Kamal Hosein.

of this Order; and all capitalized terms used in this Order that are not otherwise defined herein having the meanings defined in the Stipulation;

NOW, THEREFORE, IT IS HEREBY ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2011 that:

1. The Court has reviewed the Stipulation and preliminarily finds the Settlement set forth therein to be fair, reasonable and adequate, subject to further consideration at the Settlement Hearing described below.

2. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, for the purposes of the Settlement only, the Court hereby certifies the Action as a class action on behalf of all persons or entities who purchased: (i) the common stock of the Colonial BancGroup, Inc. (“Colonial”); (ii) Colonial’s common stock traceable to the Company’s April 23, 2008 stock offering pursuant to the Registration Statement and Prospectus filed with the Securities and Exchange Commission (the “Stock Offering”); and (iii) the \$250 million worth of Subordinated Notes due in 2038, paying 8.875% interest on a quarterly basis, pursuant or traceable to Colonial’s Form S-3/A Shelf Registration Statement and Prospectus dated November 12, 2004 and Form 424 (b)(2) Prospectus Supplement dated February 28, 2008 (the “Note Offering” and together with Colonial’s common stock and the Stock Offering (“Colonial Securities”)) during the period between April 18, 2007 and August 6, 2009, inclusive (the “Settlement Class Period”), and were allegedly damaged thereby (the “Settlement Class”). Excluded from the Settlement Class are: the current and former defendants in the Action; the current and former officers and directors of the Company; members of the immediate families of the current and former defendants in the Action; the subsidiaries and affiliates of the Company; any entity in which the current and former defendants in the Action have or had a controlling interest; and the legal

representatives, heirs, successors or assigns of any excluded person. Also excluded from the Settlement Class will be any person who timely and validly seeks exclusion from the Settlement Class in accordance with the requirements set forth in the Notice.

3. The Court finds and concludes that the prerequisites of class action certification under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedures have been satisfied for the Settlement Class defined herein and for the purposes of the Settlement only, in that:

(a) the members of the Settlement Class are so numerous that joinder of all Settlement Class Members is impracticable;

(b) there are questions of law and fact common to the Settlement Class Members;

(c) the claims of Lead Plaintiffs are typical of the Settlement Class's claims;

(d) Lead Plaintiffs and Lead Counsel have fairly and adequately represented and protected the interests of the Settlement Class;

(e) the questions of law and fact common to Settlement Class Members predominate over any individual questions; and

(f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering that the claims of Settlement Class Members in the Action are substantially similar and would, if tried, involve substantially identical proofs and may therefore be efficiently litigated and resolved on an aggregate basis as a class action; the amounts of the claims of many of the Settlement Class Members are too small to justify the expense of individual actions; and it does not appear that there is any interest among Settlement Class Members in individually controlling the litigation of their claims.

(g) The Court's preliminary certification of the Settlement Class as provided herein: (i) is made for purposes of approving the Settlement Class only and is without effect on any of the Non-Settling Defendants; (ii) is without prejudice to all Non-Settling Defendants' rights to oppose class certification in this case or any other related case; and (iii) shall not be construed as or received in evidence as an admission, concession, or presumption that class certification is appropriate as to any claims against the Non-Settling Defendants.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, Lead Plaintiffs and additional named plaintiffs The Horace F. Moyer and Joan M. Moyer Living Trust and City of Worcester are certified as Class Representatives for the Settlement Class and the law firm of Labaton Sucharow LLP is appointed Class Counsel for the Settlement Class.

5. A hearing (the "Settlement Hearing") pursuant to Rule 23(e) of the Federal Rules of Civil Procedure is hereby scheduled to be held before the Court on \_\_\_\_\_, 2011, at \_\_\_\_:\_\_\_\_\_.m. for the following purposes:

(a) to determine whether the proposed Settlement is fair, reasonable and adequate, and should be approved by the Court;

(b) to determine whether the proposed Final Order and Judgment as to Officer and Director Defendants ("Judgment") as provided under the Stipulation should be entered, and to determine whether the release by the Settlement Class of the Released Claims, as set forth in the Stipulation, should be provided to the Released Defendant Parties;

(c) to determine, for purposes of the Settlement only, whether the Settlement Class should be finally certified; whether Lead Plaintiffs and the additional named plaintiffs should be finally certified as Class Representatives for the Settlement Class; and whether the

law firm of Labaton Sucharow LLP should be finally appointed as Class Counsel for the Settlement Class;

(d) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved by the Court;

(e) to consider Lead Counsel's application for an award of attorneys' fees and reimbursement of expenses (which may include an application for an award to Lead Plaintiffs for reimbursement of their reasonable costs and expenses directly related to their representations of the Settlement Class, pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA")); and

(f) to rule upon such other matters as the Court may deem appropriate.

6. The Court reserves the right to approve the Settlement with or without modification and with or without further notice of any kind. The Court further reserves the right to enter the Judgment approving the Settlement regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and/or expenses. The Court may also adjourn the Settlement Hearing or modify any of the dates herein without further notice to members of the Settlement Class.

7. The Court approves the form, substance and requirements of the Notice of Pendency of Class Action and Proposed Partial Settlement (the "Notice") and the Proof of Claim and Release form ("Proof of Claim"), substantially in the forms annexed hereto as Exhibits 1 and 2, respectively.

8. The Court approves the retention of Strategic Claims Services as the Claims Administrator. The Claims Administrator shall cause the Notice and the Proof of Claim, substantially in the forms annexed hereto, to be mailed, by first-class mail, postage prepaid, on or

before ten (10) business days after the date of entry of the Bankruptcy Court Approval Order (“Notice Date”), to all Settlement Class Members who can be identified with reasonable effort. The Settling Defendants shall utilize their best efforts, to the extent they have not already done so, to have Colonial provide to Lead Counsel, or the Claims Administrator: a list, in electronic searchable form, of the names and last known addresses of all persons and entities who purchased Colonial Securities during the Settlement Class Period, no later than ten (10) calendar days after entry of this Order.

9. The Claims Administrator shall use reasonable efforts to give notice to nominee purchasers such as brokerage firms and other persons or entities who purchased Colonial Securities during the Settlement Class Period as record owners but not as beneficial owners. Such nominee purchasers are directed, within seven (7) calendar days of their receipt of the Notice, to either (i) provide the Claims Administrator with lists of the names and last known addresses of the beneficial owners, and the Claims Administrator is ordered to send the Notice and Proof of Claim promptly to such identified beneficial owners by first-class mail, or (ii) request additional copies of the Notice and Proof of Claim, and within seven (7) calendar days of receipt of such copies send them by first-class mail directly to the beneficial owners. Nominee purchasers who elect to send the Notice and Proof of Claim to their beneficial owners shall also send a statement to the Claims Administrator confirming that the mailing was made as directed. Additional copies of the Notice shall be made available to any record holder requesting such for the purpose of distribution to beneficial owners, and such record holders shall be reimbursed from the Settlement Fund, after receipt by the Claims Administrator of proper documentation, for their reasonable expenses actually incurred in sending the Notices and Proofs of Claim to beneficial owners.

10. Lead Counsel shall, at or before the Settlement Hearing, file with the Court proof of mailing of the Notice and Proof of Claim.

11. The Court approves the form of the Summary Notice of Pendency of Class Action and Proposed Partial Settlement (“Summary Notice”) substantially in the form annexed hereto as Exhibit 3, and directs that Lead Counsel shall cause the Summary Notice to be published in *Investor’s Business Daily* and transmitted over *PR Newswire* within fourteen (14) calendar days of the Notice Date. Lead Counsel shall, at or before the Settlement Hearing, file with the Court proof of publication of the Summary Notice.

12. The form and content of the notice program described herein, and the methods set forth herein of notifying the Settlement Class of the Settlement and its terms and conditions, meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 27 of the Securities Act of 1933, 15 U.S.C. §77z-1(a)(7), as amended by the PSLRA, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the PSLRA, and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled thereto.

13. In order to be eligible to receive a distribution from the Net Settlement Fund, in the event the Settlement is effected in accordance with the terms and conditions set forth in the Stipulation, each Settlement Class Member shall take the following actions and be subject to the following conditions:

(a) A properly executed Proof of Claim, substantially in the form annexed hereto as Exhibit 2, must be submitted to the Claims Administrator, at the address indicated in the Notice, postmarked no later than 120 calendar days after the Notice Date. Such deadline may be further extended by Court Order or by Lead Counsel in their discretion. Each Proof of

Claim shall be deemed to have been submitted when postmarked (if properly addressed and mailed by first-class mail, postage prepaid) provided such Proof of Claim is actually received prior to the motion for an order of the Court approving distribution of the Net Settlement Fund. Any Proof of Claim submitted in any other manner shall be deemed to have been submitted when it was actually received at the address designated in the Notice. Any Settlement Class Member who does not timely submit a Proof of Claim within the time provided for shall be barred from sharing in the distribution of the Net Settlement Fund, unless otherwise ordered by the Court.

(b) The Proof of Claim submitted by each Settlement Class Member must satisfy the following conditions, unless otherwise ordered by the Court: (i) it must be properly completed, signed and submitted in a timely manner in accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by Lead Counsel; (iii) if the person executing the Proof of Claim is acting in a representative capacity, a certification of her current authority to act on behalf of the Settlement Class Member must be included in the Proof of Claim; and (iv) the Proof of Claim must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

(c) As part of the Proof of Claim, each Settlement Class Member shall submit to the jurisdiction of the Court with respect to the claim submitted.



14. Settlement Class Members shall be bound by all orders, determinations and judgments in this Action, whether favorable or unfavorable, unless such Persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. A Settlement Class Member wishing to make such an exclusion request shall mail the request in written form by first-class mail to the address designated in the Notice for such exclusions, such that it is postmarked no later than twenty-one (21) calendar days prior to the Settlement Hearing. Such request for exclusion must state the name, address and telephone number of the person seeking exclusion, that the sender requests to be “excluded from the Settlement Class in *In re Colonial BancGroup, Inc. Securities Litigation, 2:09-CV-00104-RDP-WC*” and must be signed by such person. Such persons requesting exclusion are also directed to state: the date(s), price(s), and number(s) of shares of all purchases, acquisitions and sales of Colonial Securities during the Settlement Class Period. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court.

15. Settlement Class Members requesting exclusion from the Settlement Class shall not be eligible to receive any payment out of the Net Settlement Fund as described in the Stipulation and Notice.

16. The Court will consider any Settlement Class Member’s objection to the Settlement, the Plan of Allocation, and/or the application for an award of attorneys’ fees or reimbursement of expenses only if such Settlement Class Member has served by hand or by mail his, her or its written objection and supporting papers such that they are received or postmarked on or before twenty-one (21) calendar days before the Settlement Hearing, upon Lead Counsel, James W. Johnson, Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, and

Defendants' Counsel, James F. Hughey, III, Lightfoot, Franklin & White, LLC, 400 20th Street North, Birmingham, Alabama 35203-3200 and Larry B. Childs, Waller Lansden Dortch & Davis LLP, 1901 Sixth Avenue North, Suite 1400, Birmingham, Alabama 35203-3200 and has filed said objections and supporting papers with the Clerk of the Court, United States District Court for the Middle District of Alabama, Northern Division, P.O. Box 711, Montgomery, AL 36101-0711. Any Settlement Class Member who does not make his, her or its objection in the manner provided for in the Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to any aspect of the Settlement, to the Plan of Allocation, or to the request for attorneys' fees and expenses, unless otherwise ordered by the Court, but shall otherwise be bound by the Judgment to be entered and the releases to be given. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and other expenses are required to indicate in their written objection their intention to appear at the hearing. Persons who intend to object to the Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and expenses and desire to present evidence at the Settlement Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Hearing. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

17. Pending final determination of whether the Settlement should be approved, Lead Plaintiffs, all Settlement Class Members, and each of them, and anyone who acts or purports to act on their behalf, shall not institute, commence or prosecute any action which asserts Released Claims against the Released Defendant Parties.

18. As provided in the Stipulation, prior to the Effective Date, Lead Counsel may pay the Claims Administrator a portion of the reasonable fees and costs associated with giving notice to the Settlement Class and the review of claims and administration of the Settlement out of the Settlement Fund without further approval from the Defendants and without further order of the Court.

19. All papers in support of the Settlement, Plan of Allocation, and Lead Counsel's request for an award of attorneys' fees and expenses shall be filed with the Court and served on or before twenty-eight (28) calendar days prior to the date set herein for the Settlement Hearing. If reply papers are necessary, they are to be filed with the Court and served no later than seven (7) calendar days prior to the Settlement Hearing.

20. The passage of title and ownership of the Settlement Fund to the Escrow Agent in accordance with the terms and obligations of the Stipulation is approved. No person who is not a Settlement Class Member or Lead Counsel shall have any right to any portion of, or to any distribution of, the Net Settlement Fund unless otherwise ordered by the Court or otherwise provided in the Stipulation.

21. All funds held in escrow shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court until such time as such funds shall be disbursed as authorized and/or further order of the Court.

22. If the Settlement fails to become effective as defined in the Stipulation or is terminated, then, in any such event, the Stipulation, including any amendment(s) thereof, except as expressly provided in the Stipulation, and this Preliminary Approval Order shall be null and void, of no further force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence or used in any actions or proceedings by any person or entity against the

Settling Parties, and the Settling Parties shall be deemed to have reverted to their respective litigation positions in the Action as of May 24, 2011.

23. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

Dated: \_\_\_\_\_, 2011

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Honorable R. David Proctor  
UNITED STATES DISTRICT JUDGE

# EXHIBIT A-1

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

In re )  
COLONIAL BANCGROUP, INC. ) Civil Action No.  
SECURITIES LITIGATION ) 2:09-CV-00104-RDP-WC  
)  
) **NOTICE OF PENDENCY OF CLASS**  
) **ACTION AND PROPOSED**  
) **PARTIAL SETTLEMENT**  
)

**IF YOU PURCHASED PUBLICLY TRADED SECURITIES OF THE COLONIAL BANCGROUP, INC. (“COLONIAL” OR THE “COMPANY”) DURING THE PERIOD BETWEEN APRIL 18, 2007 AND AUGUST 6, 2009, INCLUSIVE (THE “SETTLEMENT CLASS PERIOD”), YOU MAY BE ELIGIBLE FOR A PAYMENT FROM A CLASS ACTION SETTLEMENT**

***A Federal Court authorized this Notice. This is not a solicitation from a lawyer.***

- Court-appointed lead plaintiffs, Arkansas Teacher Retirement System, State-Boston Retirement System, Norfolk County Retirement System and City of Brockton Retirement System (collectively, “Lead Plaintiffs”), on behalf of themselves and the putative Settlement Class (as defined below), have reached a proposed partial settlement in the amount of \$10,500,000 in cash (the “Settlement”) that will resolve all claims against Robert E. Lowder, Sarah H. Moore, T. Brent Hicks, Lewis E. Beville, William Britton, Jerry J. Chesser, Augustus K. Clements, III, Robert S. Craft, Patrick F. Dye, Hubert L. Harris, Jr., Clinton O. Holdbrooks, Harold O. King, Deborah L. Linden, John Ed Mathison, Milton E. McGregor, John C.H. Miller, Jr., Joseph D. Mussafer, William E. Powell, III, James W. Rane, Simuel Sippial, Jr., Edward V. Welch, Sheila P. Moody and Kamal Hosein (the “Settling Defendants”) in this proposed class action (the “Action”).
- The Settlement resolves claims that the Settling Defendants allegedly misled investors about Colonial’s business performance; avoids the costs and risks of continuing the Action, pays money to investors like you, and releases the Settling Defendants from liability. The Action continues to be litigated against the remaining non-settling defendants (defined below).
- This Notice explains important rights you may have, including your possible receipt of cash from the Settlement. **Your legal rights will be affected whether or not you act. Please read this Notice carefully!**
- The Court in charge of the Action still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are

resolved. Please be patient.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:</b>	
<b>ACTIONS YOU MAY TAKE</b>	<b>EFFECT OF TAKING THIS ACTION</b>
<b>SUBMIT A CLAIM FORM POSTMARKED NO LATER THAN _____, 2011.</b>	This is the only way to get a payment.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION POSTMARKED NO LATER THAN _____, 2011.</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Settling Defendants concerning the claims that were, or could have been, asserted in this case. It is also the <i>only</i> way for Settlement Class Members to remove themselves from the Settlement Class.
<b>OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION POSTMARKED NO LATER THAN _____, 2011.</b>	Write to the Court and explain why you do not like the Settlement, the proposed Plan of Allocation, and/or the request for attorneys' fees and reimbursement of expenses. You cannot object if you are not a Settlement Class Member or if you exclude yourself.
<b>GO TO THE HEARING ON _____, 2011 AT ___:___ .M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS POSTMARKED NO LATER THAN _____, 2011.</b>	Ask to speak in Court about the fairness of the Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and reimbursement of expenses.
<b>DO NOTHING</b>	Get no payment. Remain a Settlement Class Member. Give up your rights.

### **SUMMARY OF THIS NOTICE**

#### **I. Description of the Action and the Settlement Class**

This Notice relates to the proposed partial Settlement of a class action lawsuit against the Settling Defendants. As explained in more detail below, the proposed Settlement, if approved by the Court, will settle claims against the Settling Defendants by all persons and entities who purchased Colonial Securities (defined below) during the period between April 18, 2007 and August 6, 2009, inclusive, and who were allegedly damaged thereby (the "Settlement Class").

## II. Statement of the Plaintiffs' Recovery

Subject to Court approval, and as described more fully on page [ ] below, Lead Plaintiffs, on behalf of the proposed Settlement Class, have agreed to settle all claims related to the purchase or acquisition of Colonial common stock during the Settlement Class Period that were or could have been asserted against the Settling Defendants in the Action, in exchange for a payment of \$10,500,000 in cash (the "Settlement Amount"), to be deposited into an interest-bearing escrow account (the "Settlement Fund"). Based on Lead Plaintiffs' consulting damages expert's estimate of the amount of Colonial common stock that may have been damaged as a result of the alleged misstatements and omissions by the Settling Defendants, and assuming that all those shares participate in the Settlement, Lead Counsel estimates that the average recovery would be approximately \$0.03 per allegedly damaged share of common stock and \$0.06 per allegedly damaged note,<sup>1</sup> before the deduction of Court-approved attorneys' fees and expenses, taxes, and notice and administration costs. Settlement Class Members should note, however, that this is only an estimate based on the overall number of potentially damaged securities purchased by the Settlement Class. Some Settlement Class Members may recover more or less than this estimated amount depending on, among other factors, when, where, the type of security purchased, the prices at which their Colonial Securities were purchased or sold, and the proposed Plan of Allocation. The Net Settlement Fund (the Settlement Fund less taxes, notice and administration costs, and attorneys' fees and litigation expenses awarded) will be distributed in accordance with a plan of allocation (the "Plan of Allocation") approved by the Court that will determine how the Net Settlement Fund shall be allocated to the members of the Settlement Class. The proposed Plan of Allocation is included in this Notice (see page \_\_\_ below).

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<sup>1</sup> An allegedly damaged security might have been traded more than once and this average recovery would be the total for all purchasers of those securities.



### **III. Statement of Potential Outcome of the Case**

The Settling Parties do not agree on the average amount of damages per share of Colonial Securities that would be recoverable if Lead Plaintiffs were to prevail on the claims against the Settling Defendants. The Settling Defendants deny all liability and that any of Colonial's publicly traded securities were damaged as Lead Plaintiffs have alleged. The issues on which the Settling Parties disagree include, for example: (i) whether shares of Colonial Securities were artificially inflated as a result of the alleged misstatements and omissions by the Settling Defendants; (ii) the amount by which the prices of Colonial Securities were artificially inflated, if any, as a result of the alleged misstatements and omissions by the Settling Defendants; (iii) the amount of any alleged damages suffered by purchasers of Colonial Securities; (iv) the appropriate economic models for determining the amounts by which Colonial Securities were allegedly artificially inflated (if at all); (v) the effect of various market forces influencing the trading prices of Colonial Securities; (vi) whether the statements made or facts allegedly omitted were material, false, misleading or otherwise actionable under the federal securities laws; and (vii) whether, even if liability could be proven, total damages would be greater than zero dollars.

### **IV. Statement of Attorneys' Fees and Litigation Expenses Sought**

Lead Counsel (as defined on page [ ] below) will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed 25% of the Settlement Fund, which will include interest. In addition, Lead Counsel also will apply for the reimbursement of litigation expenses paid or incurred in connection with the prosecution and resolution of the Action, in an amount not to exceed \$300,000, plus interest from the date of funding at the same rate as earned by the Settlement Fund. Lead Counsel's overall request for reimbursement of litigation expenses may include a request for an award to Lead Plaintiffs

Arkansas Teacher Retirement System, State-Boston Retirement System, Norfolk County Retirement System and City of Brockton Retirement System for reimbursement of their reasonable costs and expenses directly related to their representation of the Settlement Class, pursuant to the Private Securities Litigation Reform Act of 1995. If the Court approves Lead Counsel's attorneys' fee and expense application in full, the average amount of fees and expenses will be approximately \$0.008 per allegedly damaged share of common stock and \$0.017 per allegedly damaged note.

**V. Identification of Attorneys' Representatives**

Lead Plaintiffs and the Settlement Class are being represented by Labaton Sucharow LLP, the Court-appointed Lead Counsel. Any questions regarding the Settlement should be directed to James W. Johnson, Esq., Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, Tel: (888) 219-6877, [www.labaton.com](http://www.labaton.com), [settlementquestions@labaton.com](mailto:settlementquestions@labaton.com).

**VI. Reasons for the Settlement**

For Lead Plaintiffs, the principal reason for the Settlement is the immediate benefit of a substantial cash recovery for the Settlement Class. This benefit must be compared to the risk that no recovery or a smaller recovery might be achieved after the Court decides any motions to dismiss the complaint filed in the Action, fact and expert discovery are complete, summary judgment motions are made by the Settling Defendants, and a contested trial and likely appeals are resolved, possibly years into the future. For the Settling Defendants, who deny all allegations of liability and deny that any Settlement Class Members were damaged, the principal reason for the Settlement is to eliminate the burden, expense, uncertainty and risk of further litigation.

**[END OF COVER PAGE]**

## BASIC INFORMATION

1. Why did I get this notice package?

You or someone in your family may have purchased Colonial Securities during the period between April 18, 2007 and August 6, 2009, inclusive. Colonial Securities are:

- the common stock of Colonial;
- Colonial’s common stock traceable to the Company’s April 23, 2008 stock offering pursuant to the Registration Statement and Prospectus filed with the Securities and Exchange Commission (“SEC”) (the “Stock Offering”); and
- the \$250 million worth of Subordinated Notes due in 2038, paying 8.875% interest on a quarterly basis, pursuant or traceable to Colonial’s Form S-3/A Shelf Registration Statement and Prospectus dated November 12, 2004 and Form 424 (b)(2) Prospectus Supplement dated February 28, 2008 (the “Note Offering”).

The Court directed that this Notice be sent to Settlement Class Members because they have a right to know about the proposed partial Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement. If approved, the Settlement will end all of the Settlement Class’s claims against the Settling Defendants—the claims against the remaining non-settling defendants will continue to be litigated.<sup>2</sup> The Court will consider whether to approve the Settlement at a Settlement Hearing on \_\_\_\_\_, 2011 at \_\_\_:\_\_\_m. If the Court approves the Settlement, and after any appeals are resolved and the Settlement administration is completed, the claims administrator appointed by the Court will make the payments that the Settlement allows.

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<sup>2</sup> These defendants are PricewaterhouseCoopers LLP, Banc of America Securities LLC, Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, Deutsche Bank Securities Inc., Morgan Keegan & Company, Inc., Morgan Stanley & Co., Inc., RBC Dain Rauscher Inc., Stifel, Nicolaus & Company, Inc., SunTrust Robinson Humphrey, Inc., UBS Securities LLC, and Wachovia Capital Markets, LLC (the “Non-Settling Defendants”).

The Court in charge of the case is the United States District Court for the Middle District of Alabama, Northern Division, and the case is known as *In re Colonial BancGroup, Inc. Securities Litigation*, 2:09-CV-00104-RDP-WC. This case was assigned to United States District Judge R. David Proctor. The persons who are suing are called “plaintiffs” and the company and the persons being sued are called “defendants.”

2. What is this lawsuit about and what has happened so far?

Lead Plaintiffs’ claims in the Action are stated in the First Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws (the “Amended Complaint”), dated April 29, 2011. Lead Plaintiffs allege that certain of Colonial’s officers and directors, including the Settling Defendants, and additional Non-Settling Defendants (collectively, “Defendants”) violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Sections 11, 12(a)(2) and 15 of the and the Securities Act of 1933 (the “Securities Act”). The Exchange Act claims allege violations of the anti-fraud provisions of the securities laws arising from alleged misstatements and omissions made in connection with Colonial’s publicly-filed financials and other alleged misstatements made by Colonial’s senior officers. The Securities Act claims arise from alleged misstatements and omissions in a subordinated note offering and a stock offering conducted by the Company in March and April of 2008, respectively.

This Action began in February 2009 when a series of proposed class actions were filed against Colonial, its officers and directors, and other defendants in the United States District Court for the Middle District of Alabama, Northern Division (the “Court”). On May 7, 2009, the Court appointed Lead Plaintiffs and appointed Labaton Sucharow LLP as Lead Counsel and Thomas, Means, Gillis & Seay, P.C. as Liaison Counsel to represent the putative Class. On May

8, 2009, the Court issued an order consolidating all related cases into the present Action. Lead Plaintiffs filed a Consolidated Class Action Complaint for Violations of the Federal Securities Laws (the "Complaint") on June 22, 2009.

On August 25, 2009, Colonial filed for bankruptcy protection pursuant to Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Middle District of Alabama. Colonial is no longer named as a Defendant in the Action because of this petition for bankruptcy protection. The Court thereafter invited comment as to whether the Action should be stayed as a result of the petition. On September 25, 2009, Defendants began filing motions to dismiss the Complaint. In September 2009, the Court suspended further briefing on motions to dismiss pending the Court's decision as to whether the automatic bankruptcy stay should serve to stay the Action. On January 7, 2010, the Court ruled that the bankruptcy stay should not be extended to the Action, and the stay was lifted. The parties completed briefing the motions to dismiss in February 2010.

On May 14, 2010, the Court issued orders denying all Defendants' motions to dismiss and sustaining the Complaint. On May 18, 2010, shortly after denying all Defendants' motions to dismiss, Judge Myron F. Thompson notified the parties that he had a disqualifying conflict and recused himself. The Action was stayed pending reassignment, and all Defendants moved for reconsideration of the denial of their motions to dismiss. On August 27, 2010, the Action was assigned to Judge R. David Proctor.

A status conference was held before the Court on December 15, 2010, in which the Court deemed moot the motions for reconsideration and instructed Lead Plaintiffs to file an amended complaint. On April 29, 2011, Lead Plaintiffs filed the operative Amended Complaint in the Action.

On November 22 and December 2-3, 2010, Lead Plaintiffs and Defendants met with David Geronemus, Esq., a highly experienced mediator for JAMS, an entity which provides private mediation and arbitration services, for lengthy in-person mediation sessions in an attempt to reach a settlement of the claims in this Action and related actions. The mediations involved an extended effort to settle the litigation. These discussions did not result in the present Settlement, but were informative and helped bring about the subsequent negotiations between Lead Plaintiffs and the Settling Defendants that resulted in the Settlement.

The Settling Parties entered into the Amended and Restated Stipulation and Agreement of Settlement with Officers and Defendants (the “Stipulation”) on \_\_\_\_, 2011. On \_\_\_\_\_, 2011, the Court preliminarily approved the Settlement, authorized this Notice to be sent to potential Settlement Class Members, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

The Settling Defendants deny the claims and contentions alleged by Lead Plaintiffs in this Action, deny any liability whatsoever, and maintain that they have meritorious defenses to all claims that were raised or could have been raised in the Action.

3. Why is this a class action?

In a class action, one or more people called class representatives (in this case the Lead Plaintiffs on behalf of the Settlement Class) sue on behalf of people or entities, known as “Settlement Class Members,” who have similar claims. A class action allows one court to resolve in a single case many similar claims that, if brought separately by individuals, might be economically so small that they would never be brought. One court resolves the issues for all class members, except for those who exclude themselves, or “opt out,” from the Class (see page \_\_\_\_ below).

4. Why is there a settlement?

The Court did not decide in favor of Lead Plaintiffs or the Settling Defendants. The Settlement will end all the claims against the Settling Defendants in the Action and avoid the uncertainties and costs of further litigation and any future trial. Affected investors will be eligible to get compensation soon, rather than after the time it would take to resolve future motions to dismiss, conduct discovery, have a trial and exhaust all appeals.

The Settlement was reached after months of investigation and litigation. Lead Plaintiffs, through Lead Counsel, conducted an extensive investigation of the claims, defenses and underlying events and transactions relating to the Action. This investigation included, among other things, reviewing and analyzing: (i) investigative findings by the FDIC Office of the Inspector General and transcripts from the trial of Lee B. Farkas; (ii) Colonial's filings with the SEC; (iii) publicly available information concerning Defendants, including newspaper articles, online publications, stock price movement data, statements at analyst conferences, and Bloomberg reports; (iv) securities analyst reports; (v) press releases and media reports issued by Defendants; and (vi) the applicable law and accounting rules governing the claims and potential defenses. Lead Counsel also closely monitored Colonial's bankruptcy proceeding and filings, identified more than 700 potential witnesses, contacted almost 80 potential witnesses, and consulted with an experienced damages expert. Further, Lead Counsel and Lead Plaintiffs participated in rigorous arm's-length negotiations and a mediation before an experienced mediator before entering into the Settlement.

The Settling Defendants deny all allegations of liability contained in the Amended Complaint and deny that they are liable to the Settlement Class. The Settlement should not be

seen as an admission or concession on the part of the Settling Defendants about any of the claims, their fault or liability for damages.

**WHO IS IN THE SETTLEMENT**

5. How do I know if I am part of the Settlement?

The Court determined, for the purposes of the Settlement only, that everyone who fits the following description, and is not excluded by definition from the Settlement Class (see Question [6] below), is a member of the Settlement Class, or a “Settlement Class Member,” unless they take steps to exclude themselves:

any person or entity who purchased: (i) the common stock of Colonial (ii) Colonial’s common stock traceable to the Company’s April 23, 2008 stock offering pursuant to the Registration Statement and Prospectus filed with the Securities and Exchange Commission (the Stock Offering); and (iii) the \$250 million worth of Subordinated Notes due in 2038, paying 8.875% interest on a quarterly basis, pursuant or traceable to Colonial’s Form S-3/A Shelf Registration Statement and Prospectus dated November 12, 2004 and Form 424 (b)(2) Prospectus Supplement dated February 28, 2008 (the Note Offering) during the period between April 18, 2007 and August 6, 2009, inclusive, and were allegedly damaged thereby (the “Settlement Class”).

Receipt of this Notice does not mean that you are a Settlement Class Member. Please check your records or contact your broker to see if you purchased Colonial Securities during the Settlement Class Period as described above.

You should be aware that the certification of this case as a class action, and the definition of who is a member of the Settlement Class as defined above, apply only for purpose of this Settlement of the claims against the Settling Defendants. There is no guarantee that the Court will certify the claims against the Non-Settling Defendants as a class action.



6. Are there exceptions to being included in the Settlement Class?

There are some people who are excluded from the Settlement Class by definition. Excluded from the Settlement Class are: the current and former defendants in the Action; the current and former officers and directors of the Company; members of the immediate families of the current and former defendants in the Action; the subsidiaries and affiliates of the Company; any entity in which the current and former defendants in the Action have or had a controlling interest; and the legal representatives, heirs, successors or assigns of any excluded person.

Also excluded from the Settlement Class will be any person who timely and validly seeks exclusion from the Settlement Class in accordance with the requirements set forth in this Notice. If you do not want to be a Settlement Class Member - for example if you want to continue with or bring your own lawsuit against the Settling Defendants at your own expense for the claims that are being released as part of the Settlement - **you must** exclude yourself by submitting a request for exclusion in accordance with the requirements explained in Question [13] below.

7. What if I am still not sure if I am included?

If you are still not sure whether you are included, you can ask for free help by writing to or calling the Claims Administrator: *In re Colonial BancGroup, Inc. Securities Litigation*, Claims Administrator, c/o Strategic Claims Services, [address], 800-[\_\_], www.[\_\_].com. Or you can fill out and return the Proof of Claim and Release form (“Proof of Claim”) described in Question 10, to see if you qualify.

**THE SETTLEMENT BENEFITS—WHAT YOU MAY RECEIVE**

8. What does the Settlement provide?

In the Settlement, the Settling Defendants have agreed to cause \$10,500,000 to be paid in cash, which will be deposited in an interest-bearing escrow account for the benefit of the Settlement Class (the “Settlement Fund”) in exchange for the dismissal of all Released Claims (defined below).<sup>3</sup> The Settlement Fund will be divided, after deduction of Taxes, Court-awarded attorneys’ fees and expenses, and settlement notice and administration costs, among all Settlement Class Members who timely submit valid Proofs of Claim that are accepted for payment by the Court (“Authorized Claimants”).

9. How much will my payment be?

The Plan of Allocation, discussed on pages [\_\_\_\_] below, explains how claimants’ “Recognized Losses” will be calculated. Your share of the Net Settlement Fund will depend on several things, including: (i) the quantity and type of Colonial Securities you bought; (ii) how much you paid for those securities; (iii) when you bought them; (iv) whether or when you sold them (and, if so, for how much you sold them); and (v) the amount of Recognized Losses of other Authorized Claimants.

It is unlikely that you will get a payment for your entire Recognized Loss, given the number of potential Settlement Class Members. After all Settlement Class Members have sent in their Proofs of Claim, the payment any Authorized Claimant will get will be their *pro rata* share of the Net Settlement Fund. An Authorized Claimant’s share will be his, her or its Recognized Loss divided by the total of all Authorized Claimants’ Recognized Losses and then multiplied by

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<sup>3</sup> The Settlement also proposes that as part of the Judgment, the Court will preclude claims seeking contribution and indemnification.

the total amount in the Net Settlement Fund. *See* the Plan of Allocation beginning on page [ ] for more information.

Once all the Proofs of Claim are processed and claims are calculated, Lead Counsel, without further notice to the Settlement Class, will apply to the Court for an order authorizing distribution of the Net Settlement Fund to the Authorized Claimants. Lead Counsel will also ask the Court to approve payment of the Claims Administrator's fees and expenses incurred in connection with administering the Settlement that have not already been reimbursed.

**HOW YOU GET A PAYMENT—SUBMITTING A PROOF OF CLAIM**

10. How can I get a payment?

To qualify for a payment, you must timely send in a valid Proof of Claim with supporting documents (DO NOT SEND ORIGINALS of your supporting documents). A Proof of Claim is enclosed with this Notice. You may also get copies of the Proof of Claim on the Internet at the websites for the Claims Administrator: [www.\[ \].com](http://www.[ ].com), or Lead Counsel: [www.labaton.com](http://www.labaton.com). Please read the instructions carefully, fill out the Proof of Claim, include all the documents the form asks for, sign it, and mail it to the Claims Administrator by first-class mail, **postmarked on or before \_\_\_\_\_, 2011**. *The Claims Administrator needs all of the information requested in the Proof of Claim in order to determine if you are eligible to receive a distribution from the Net Settlement Fund.*

11. When will I get my payment?

The Court will hold a hearing on \_\_\_\_\_, 2011 at \_\_: \_\_ .m., to decide whether to, among other things, approve the Settlement and the proposed Plan of Allocation. All Proofs of Claim must be submitted to the Claims Administrator, **postmarked on or before**

\_\_\_\_\_, **2011**. If the Court approves the Settlement, there may still be appeals which would delay payment, perhaps for more than a year. It also takes time for all the Proofs of Claim to be processed. Please be patient.

12. What am I giving up by staying in the Settlement Class?

Unless you exclude yourself, you will stay in the Settlement Class, which means that as of the date that the Settlement becomes effective under the terms of the Stipulation (the “Effective Date”), you will forever give up and release all “Released Claims” (as defined below) against the “Released Defendant Parties” (as defined below). You will not in the future be able to bring a case asserting any Released Claim against the Released Defendant Parties.

“Released Claims” means all claims, whether known or Unknown (as defined below), whether arising out of or relating to, directly or indirectly, the purchase or acquisition of Colonial Securities during the Settlement Class Period and the facts, matters, allegations, transactions, events, disclosures, statements, acts or omissions that have been or could have been asserted by any member of the Settlement Class in the Action against the Released Defendant Parties, which includes, for the avoidance of doubt, claims previously brought against the Company in the Action. For the avoidance of doubt, Released Claims do not include: (i) claims to enforce the Settlement; (ii) any claim by the Federal Deposit Insurance Corporation, whether as receiver for Colonial Bank or in its corporate capacity, or any claim by any governmental or regulatory agency asserted in any criminal, administrative or civil action; (iii) claims or interests of any Class Member, including Lead Plaintiffs, in the Bankruptcy Case solely in connection with their status as holders of Colonial Securities in the event there is a future distribution in the Bankruptcy Case; or (iv) claims against any Non-Settling Defendant.

“Released Defendants’ Claims” means all claims, whether known or Unknown (as defined below), whether arising under federal, state, common or foreign law, or any other law, that the Settling Defendants asserted, or could have asserted, against any of the Released Plaintiff Parties that arise out of or relate in any way to the institution, prosecution, or settlement of the Action (other than claims to enforce the Settlement).

“Released Defendant Parties” means the Company; the Settling Defendants; the respective attorneys for the Released Defendant Parties; and the present and former principals, agents, insurers, auditors, attorneys, predecessors, successors, parents, subsidiaries, divisions, joint ventures, general or limited partners or partnerships, limited liability companies, directors, officers, general counsels, or employees of the Company; but specifically does not include any Non-Settling Defendant.

“Unknown Claims” means any and all Released Claims, which the Lead Plaintiffs or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Defendant Parties, and any Released Defendants’ Claims that the Settling Defendants do not know or suspect to exist in his, her or its favor at the time of the release of the Released Plaintiff Parties, 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 and Released Defendants’ Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiffs and the Settling Defendants, shall expressly, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment or Alternative Judgment shall have, expressly waived and relinquished any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle

of common law, 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.

Lead Plaintiffs, the other Settlement Class Members or the Settling Defendants may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims and the Released Defendants' Claims, but Lead Plaintiffs and the Settling Defendants shall expressly, fully, finally and forever settle and release, and each other Settlement Class Member shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment or Alternative Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims and Released Defendants' Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs and the Settling Defendants acknowledge, and other Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a key element of the Settlement.

#### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you want to keep any right you may have to sue or continue to sue the Released Defendant Parties on your own about the Released Claims, then you must take steps to exclude yourself from the Settlement Class. Excluding yourself is known as "opting out" of the Settlement Class. The Settling Defendants may withdraw from and terminate the Settlement if

potential Settlement Class Members who purchased in excess of a certain amount of Colonial Securities opt out from the Settlement Class.

13. How do I “opt out” (exclude myself) from the proposed Settlement?

To “opt out” (exclude yourself) from the Settlement Class, you must deliver or mail a signed letter by first-class mail stating that you “request exclusion from the Settlement Class in *In re Colonial BancGroup, Inc. Securities Litigation, 2:09-CV-00104-RDP-WC.*” Your letter **must** state the date(s), price(s) and number of shares of all your purchases and sales of Colonial Securities during the Settlement Class Period. This information is needed to determine whether you are a Settlement Class Member. In addition, you must include your name, address, telephone number, and your signature. You must submit your request for exclusion addressed to *In re Colonial BancGroup, Inc. Securities Litigation -- EXCLUSIONS*, c/o Strategic Claims Services, [address]. The request for exclusion must be **delivered or postmarked on or before \_\_\_\_\_, 2011. You cannot exclude yourself or opt out by telephone or by email.** Your request for exclusion must comply with these requirements in order to be valid. If you are excluded, you will not be eligible to get any payment from the Settlement proceeds and you cannot object to the Settlement, the proposed Plan of Allocation or the application for attorneys’ fees and reimbursement of expenses.

14. If I do not exclude myself, can I sue the Settling Defendants and the other Released Defendant Parties for the same thing later?

No. Unless you exclude yourself, you give up any rights to sue the Settling Defendants and the other Released Defendant Parties for all Released Claims. If you have a pending lawsuit, speak to your lawyer in that case **immediately**. You must exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is \_\_\_\_\_, 2011.

15. If I exclude myself, can I get money from the proposed Settlement?

No. If you exclude yourself, do not send in a Proof of Claim to ask for any money. But, you may exercise any right you may have to sue, continue to sue or be part of a different lawsuit against the Settling Defendants and the other Released Defendant Parties.

**THE LAWYERS REPRESENTING YOU**

16. Do I have a lawyer in this case?

The law firm of Labaton Sucharow was appointed to represent all Settlement Class Members. These lawyers are called Lead Counsel. You will not be separately charged for these lawyers. The Court will determine the amount of Lead Counsel's fees and expenses. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Lead Counsel have not received any payment for their services in pursuing the claims against the Settling Defendants on behalf of the Settlement Class, nor have they been reimbursed for their litigation expenses. At the Settlement Hearing described below, or at such other time as the Court may order, Lead Counsel will ask the Court to award them, from the Settlement Fund, attorneys' fees of no more than 25% of the Settlement Fund, which will include interest, and to reimburse them for their litigation expenses, such as the cost of experts, that they have incurred in pursuing the Action. The request for reimbursement of expenses will not exceed \$300,000, plus interest on the expenses from the date of funding at the same rate as may be earned by the Settlement Fund. Lead Counsel's overall request for reimbursement of litigation expenses may include a request for an award to Lead Plaintiffs for reimbursement of their reasonable costs and



expenses directly related to their representation of the Settlement Class, pursuant to the Private Securities Litigation Reform Act of 1995.

### **OBJECTING TO THE SETTLEMENT**

18. How do I tell the Court that I do not like something about the proposed Settlement?

If you are a Settlement Class Member and do not “opt out,” you can object to any part of the Settlement, the proposed Plan of Allocation, and/or the application by Lead Counsel for attorneys’ fees and reimbursement of expenses. You must write to the Court setting out your objection, giving reasons why you think the Court should not approve any part or all of the Settlement.

To object, you must send a signed letter stating that you object to the proposed Settlement in the case known as “*In re Colonial BancGroup, Inc. Securities Litigation*, 2:09-CV-00104-RDP-WC.” You must include your name, address, telephone number and your signature; identify the date(s), price(s) and number of shares of all purchases, acquisitions and sales of Colonial Securities during the Settlement Class Period; and state the reasons why you object to the Settlement. This information is needed to demonstrate your membership in the Settlement Class.

Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will not be able to make any objection to the Settlement, the proposed Plan of Allocation, and/or the application for attorneys’ fees and reimbursement of expenses in the future.

Your objection must be filed with the United States District Court for the Middle District of Alabama, Northern Division by hand or by mail such that it is **received or postmarked on or before \_\_\_\_\_, 2011** at the address set forth below. You must also serve the papers on

Lead Counsel and Settling Defendants' Counsel at the addresses set forth below so that the papers are **received or postmarked on or before** \_\_\_\_\_, 2011.

**COURT:**

CLERK OF THE COURT  
United States District Court for the Middle District  
of Alabama  
U.S. District Court  
P.O. Box 711  
Montgomery, AL 36101-0711

**LEAD COUNSEL:**

LABATON SUCHAROW LLP  
James W. Johnson, Esq.  
140 Broadway  
New York, New York 10005

**COUNSEL FOR SETTLING DEFENDANTS:**

LIGHTFOOT, FRANKLIN & WHITE, LLC:  
James F. Hughey III, Esq.  
400 20th Street North  
Birmingham, Alabama 35203-3200

WALLER LANSDEN DORTCH &  
DAVIS LLP  
Larry B. Childs, Esq.  
1901 Sixth Avenue North, Suite 1400  
Birmingham, Alabama 35203-3200

19. What is the difference between objecting and requesting exclusion?

Objecting is simply telling the Court that you do not like something about the proposed Settlement. You can still recover from the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT'S SETTLEMENT HEARING**

20. When and where will the Court decide whether to approve the proposed Settlement?

The Court will hold a Settlement Hearing at \_\_\_\_\_.m. on \_\_\_\_\_, 2011, in the United States District Court for the Middle District of Alabama, Northern Division, United

States Courthouse, Courtroom \_\_\_\_, One Church Street, Montgomery, AL 36104. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court also will consider the proposed Plan of Allocation for the proceeds of the Settlement and the applications for attorneys' fees and reimbursement of expenses. The Court will take into consideration any written objections filed in accordance with the instructions set out above in the answer to Question 18. We do not know how long it will take the Court to make these decisions.

You should also be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Settlement Class Members. If you want to come to the hearing, you should check with Lead Counsel before coming to be sure that the date and/or time has not changed.

21. Do I have to come to the hearing?

No. Lead Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you validly submit an objection, it will be considered by the Court. You do not have to come to Court to talk about it.

22. May I speak at the hearing and submit additional evidence?

If you file an objection, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* Question 18 above) a statement that it is your "notice of intention to appear in *In re Colonial BancGroup, Inc. Securities Litigation*, 2:09-CV-00104-RDP-WC." Persons who object and want to present evidence at the Settlement Hearing must also include in their written objection the identity of any witness they may call to testify and exhibits they intend to introduce at the Settlement Hearing. You cannot speak at the hearing if you excluded yourself from the Settlement Class or if you have not

provided written notice of your intention to speak at the Settlement Hearing according to the procedures described above and in the answer to Question 18.

**IF YOU DO NOTHING**

23. What happens if I do nothing at all?

If you do nothing, you will get no money from this Settlement and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Settling Defendants and the Released Defendant Parties about the Released Claims in this case. To be eligible to share in the Net Settlement Fund you must submit a Proof of Claim (*see* Question 10). To start, continue or be a part of any *other* lawsuit against the Settling Defendants and the other Released Defendant Parties about the Released Claims in this case you must exclude yourself from this Settlement Class (*see* Question 13).

**GETTING MORE INFORMATION**

24. Are there more details about the proposed Settlement and the lawsuit?

This Notice summarizes the proposed Settlement. More details are in the Amended and Restated Stipulation and Agreement of Settlement, dated as of \_\_, 2011 (the “Stipulation”). You may review the Stipulation filed with the Court and all documents filed in the Action during business hours at the Office of the Clerk of the United States District Court for the Middle District of Alabama, United States Courthouse, One Church Street, Montgomery, AL 36104.

You also can call the Claims Administrator toll free at 800-[\_\_\_\_]; call Lead Counsel: Labaton Sucharow at [888-219-6877]; write to *In re Colonial BancGroup, Inc. Securities Litigation*, 2:09-CV-00104-RDP-WC., c/o Strategic Claims Services, [\_\_\_\_]; or visit the websites

www.[ ] .com and www.labaton.com, where you can download copies of this Notice and the Proof of Claim. **Please Do Not Call the Court or the Settling Defendants With Questions About the Settlement.**

**PLAN OF ALLOCATION OF NET SETTLEMENT FUND  
AMONG SETTLEMENT CLASS MEMBERS**

**GENERAL PROVISIONS**

The Net Settlement Fund shall be distributed to each Settlement Class Member who timely submits a valid Proof of Claim to the Claims Administrator that is accepted for payment by the Court (“Authorized Claimant”). The Net Settlement Fund will not be distributed to Authorized Claimants until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, of the order(s) approving the Settlement and the plan of allocation has expired. The Settling Defendants are not entitled to get back any portion of the Settlement Fund once the Effective Date of the Settlement has occurred.

The Plan of Allocation set forth herein is the plan that is being proposed by Lead Plaintiffs and Lead Counsel to the Court for approval. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Class. Any orders regarding a modification of the Plan of Allocation will be posted on the settlement website, www.[ ] .

Payment pursuant to the Plan of Allocation approved by the Court shall be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiffs, Lead Counsel, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the Plan of Allocation, or

further orders of the Court. Lead Plaintiffs, the Settling Defendants, their respective counsel, Lead Plaintiffs' damages expert, and all other Released Parties shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund consistent with the terms of the Stipulation, the Plan of Allocation, or the determination, administration, calculation, or payment of any Proof of Claim or nonperformance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

A "Recognized Loss" will be calculated for each purchase of Colonial Securities during the Settlement Class Period that are listed in the Proof of Claim, and for which adequate documentation is provided. The calculation of Recognized Loss will depend upon several factors, including what type of securities were purchased, when the securities were purchased, and when they were sold.

The Recognized Loss formulas set forth below are not intended to be an estimate of the amount that a Class Member might have been able to recover after a trial, nor are they an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss formulas are the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants.

The objective of the Plan of Allocation is to equitably distribute the settlement proceeds to those Settlement Class Members who suffered economic losses as a result of the alleged misrepresentations and omissions of the Defendants during the class period, as opposed to losses caused by market or industry factors or other Company-specific factors. The Plan of Allocation reflects Lead Plaintiffs' determination of potentially recoverable losses based on Lead Plaintiffs' consulting damages expert's analysis. This analysis included a review of publicly available

information regarding Colonial, statistical analyses of the price movements of Colonial Securities, and analyses under Section 11 of the Securities Act.

### **RECOGNIZED LOSS FORMULAS**

#### **(I) Recognized Loss Calculation for Common Stock Purchased (excluding common stock purchased in the April 23, 2008 Stock Offering) During the Class Period :**

- 1. For shares of common stock purchased between April 18, 2007 and October 22, 2008, inclusive:**
  - A. For shares retained at the end of trading on August 6, 2009, the Recognized Loss shall be the lesser of:
    - (1) \$5.32 per share; or
    - (2) the difference between the purchase price per share and \$.11.<sup>4</sup>
  - B. For shares sold between April 18, 2007 and October 22, 2008, inclusive, the Recognized Loss shall be zero.
  - C. For shares sold between October 23, 2008 and January 27, 2009, inclusive, the Recognized Loss shall be the lesser of:
    - (1) \$3.78 per share; or
    - (2) the difference between the purchase price per share and the sales price per share for each share sold.
  - D. For shares sold between January 28, 2009 and June 9, 2009, inclusive, the Recognized Loss shall be the lesser of:
    - (1) \$4.66 per share; or

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<sup>4</sup> Pursuant to Section 21(D)(e)(1) of the Private Securities Litigation Reform Act of 1995, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated." \$.11 was the mean (average) daily closing trading price of Colonial common stock during the 90-day period beginning on August 7, 2009 and ending on November 4, 2009.

- (2) the difference between the purchase price per share and the sales price per share for each share sold.
- E. For shares sold between June 10, 2009 and August 2, 2009, inclusive, the Recognized Loss shall be the lesser of:
  - (1) \$4.95 per share; or
  - (2) the difference between the purchase price per share and the sales price per share for each share sold.
- F. For shares sold between August 3, 2009 and August 6, 2009, inclusive, the Recognized Loss shall be the lesser of:
  - (1) \$5.08 per share; or
  - (2) the difference between the purchase price per share and the sales price per share for each share sold.
- 2. For shares of common stock purchased between October 23, 2008 and January 27, 2009, inclusive:**
  - A. For shares retained at the end of trading on August 6, 2009, the Recognized Loss shall be the lesser of:
    - (1) \$1.54 per share; or
    - (2) the difference between the purchase price per share and \$.11.
  - B. For shares sold between October 23, 2008 and January 27, 2009, inclusive, the Recognized Loss shall be zero.
  - C. For shares sold between January 28, 2009 and June 9, 2009, inclusive, the Recognized Loss shall be the lesser of:
    - (1) \$.88 per share; or
    - (2) the difference between the purchase price per share and the sales price per share for each share sold.
  - D. For shares sold between June 10, 2009 and August 2, 2009, inclusive, the Recognized Loss shall be the lesser of:
    - (1) \$1.17 per share; or
    - (2) the difference between the purchase price per share and the sales price per share for each share sold.



- E. For shares sold between August 3, 2009 and August 6, 2009, inclusive, the Recognized Loss shall be the lesser of:
  - (1) \$1.30 per share; or
  - (2) the difference between the purchase price per share and the sales price per share for each share sold.
  
- 3. For shares of common stock purchased between January 28, 2009 and June 9, 2009, inclusive:**
  - A. For shares retained at the end of trading on August 6, 2009, the Recognized Loss shall be the lesser of:
    - (1) \$.66 per share; or
    - (2) the difference between the purchase price per share and \$.11.
  - B. For shares sold between January 28, 2009 and June 9, 2009, inclusive, the Recognized Loss shall be zero.
  - C. For shares sold between June 10, 2009 and August 2, 2009, inclusive, the Recognized Loss shall be the lesser of:
    - (1) \$.29 per share; or
    - (2) the difference between the purchase price per share and the sales price per share for each share sold.
  - D. For shares sold between August 3, 2009 and August 6, 2009, inclusive, the Recognized Loss shall be the lesser of:
    - (1) \$.42 per share; or
    - (2) the difference between the purchase price per share and the sales price per share for each share sold.
  
- 4. For shares of common stock purchased between June 10, 2009 and August 2, 2009, inclusive:**
  - A. For shares retained at the end of trading on August 6, 2009, the Recognized Loss shall be the lesser of:
    - (1) \$.37 per share; or
    - (2) the difference between the purchase price per share and \$.11.

- B. For shares sold between June 10, 2009 and August 2, 2009, inclusive, the Recognized Loss shall be zero.
- C. For shares sold between August 3, 2009 and August 6, 2009, inclusive, the Recognized Loss shall be the lesser of:
  - (1) \$.13 per share; or
  - (2) the difference between the purchase price per share and the sales price per share for each share sold.

**5. For shares of common stock purchased between August 3, 2009 and August 6, 2009, inclusive:**

- A. For shares retained at the end of trading on August 6, 2009, the Recognized Loss shall be the lesser of:
  - (1) \$.24 per share; or
  - (2) the difference between the purchase price per share and \$.11.
- B. For shares sold between August 3, 2009 and August 6, 2009, inclusive, the Recognized Loss shall be zero.

**(II) Recognized Loss Calculation for Common Stock Purchased in the April 23, 2008 Stock Offering:**

- A. For shares retained at the end of trading on August 6, 2009, the Recognized Loss shall be \$7.33<sup>5</sup> per share;
- B. For shares sold prior to June 23, 2009, the Recognized Loss shall be the lesser of:
  - (1) \$7.33 per share; or
  - (2) the difference between the purchase price per share and the sales price per share for each share sold.
- C. For shares sold between June 23, 2009 and August 6, 2009, inclusive, the Recognized Loss shall be the lesser of:
  - (1) \$7.33 per share; or
  - (2) the difference between the purchase price per share and the sales price per share for each share sold.

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<sup>5</sup> This represents the difference between the \$8.00 offering price on April 23, 2008 and the closing price of Colonial's common stock on June 23, 2009 of \$.67 per share, one full trading day after the initial suit was brought re: the April 23, 2008 Stock Offering.

The total recovery payable to Authorized Claimants from common stock purchases in the April 23, 2008 stock offering shall not exceed seven and one-half percent (7.5%) of the Net Settlement Fund.

**(III) Recognized Loss Calculation for Colonial's 8.875% Subordinated Notes due 2038 Issued in the March 3, 2008 Note Offering<sup>6</sup> and Purchased during the Class Period:**

- A. For Notes retained at the end of trading on August 6, 2009, the Recognized Loss shall be the lesser of:
- (1) \$18.40<sup>7</sup> per note;
  - (2) Purchase price per note less the August 7, 2009 "settle-out" price (or assumed sale price) of 3.45<sup>8</sup> per note.
- B. For Notes sold on or before August 6, 2009, the Recognized Loss shall be the lesser of:
- (1) \$18.40 per note;
  - (2) Purchase price per note (not to exceed the offering price of \$25 per note) less sales price per note.

The total recovery payable to Authorized Claimants from Note purchases during the Class Period shall not exceed ten percent (10%) of the Net Settlement Fund.

**(IV) Recognized Loss Calculation for Option Contracts During the Class Period:**

**For common stock call options**

- (i) The Recognized Loss for each call option contract on Colonial common stock purchased or otherwise acquired during the Class Period shall be twenty-five percent (25%)<sup>9</sup> of the lesser of (x) the common stock inflation per share<sup>10</sup> for all shares

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<sup>6</sup> For the Note Offering there were \$250 million of Notes issued in denominations of \$25 per Note.

<sup>7</sup> This represents the difference between the \$25.00 Note Offering price on March 3, 2008 and the closing price of Colonial's Notes on June 23, 2009 of \$6.60 per Note, one full trading day after the initial suit for the Note Offering was brought.

<sup>8</sup> This represents the August 7, 2009 closing price of Colonial 8.875% Subordinated Notes due 2038 of \$3.45 per Note.

<sup>9</sup> Losses from transactions in options are discounted (i) because the purchase of a call option includes a time premium which is a wasting asset for which the purchaser pays that will evaporate even if the stock price remains the same, and (ii) because the expected additional volatility of such derivative securities makes it more difficult to prove that losses on such securities are causally related to the alleged wrongdoing, as opposed to non-actionable causes.

<sup>10</sup> Common stock inflation per share for purposes of the Plan of Allocation is estimated as follows:

covered by the call option contract on the date the call option was purchased, less, if sold, the common stock inflation per share for all shares covered by the call option contract on the date the call option was sold, or (y) the difference between: (a) the amount paid per call option contract and: (b) the sale price received per option contract when said call options were subsequently sold (if the option expired worthless, the sales price shall be deemed to be Zero (\$0.00));

- (ii) Shares of Colonial common stock acquired during the Class Period through the exercise of a call option shall be treated as a purchase on the date of exercise for the exercise price plus the cost of the call option, and any Recognized Loss arising from such transaction shall be computed as provided for other purchases of Colonial common stock as set forth herein;
- (iii) No Recognized Loss shall be calculated based upon the sale or writing of any call option that was subsequently repurchased.

**For common stock put options**

- (i) The Recognized Loss for each put option contract on Colonial common stock sold or written during the Class Period, shall be twenty-five percent (25%) of the lesser of (x) the common stock inflation per share for all shares covered by the put option contract on the date the claimant sold or wrote the put contract, or (y) difference between: (a) the amount received per put option contract and (b) the purchase price paid per put option contract when said put options were subsequently repurchased at any time (including after the Class Period). For put options sold or written during the Class Period that expired worthless and unexercised, the Recognized Loss shall be Zero (\$0.00);
- (ii) For Colonial put options that were sold or written during the Class Period, that were “put” to the Authorized Claimant (i.e. exercised) at any time, the Recognized Loss shall be calculated as a purchase of Colonial common stock as shown herein, and as if the sale of the put option were instead a purchase of Colonial common stock on the date of the sale or writing of the put option, and the “purchase price paid” shall be the strike price of the put option less the proceeds received from the sale of the put option;
- (iii) No Recognized Loss shall be calculated based upon the sale of any put option that was previously purchased.

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April 18, 2007 – October 22, 2008:	\$5.32 per share
October 23, 2009 – January 27, 2009:	\$1.54 per share
January 28, 2009 - June 9, 2009:	\$ .66 per share
June 10, 2009 – August 2, 2009:	\$ .37 per share
August 3, 2009 – August 6, 2009:	\$ .24 per share

The total recovery payable to Authorized Claimants from transactions in call or put options shall not exceed five percent (5%) of the Net Settlement Fund.

#### **ADDITIONAL PROVISIONS**

If a Settlement Class Member has more than one purchase or sale of Colonial Securities during the Settlement Class Period, all purchases and sales shall be matched on a First In, First Out (“FIFO”) basis. Settlement Class Period sales will be matched first against any Colonial Securities held at the beginning of the Settlement Class Period, and then against purchases in chronological order, beginning with the earliest purchase made during the Settlement Class Period. Settlement Class Period Sales matched to Colonial Securities held at the beginning of the Settlement Class Period shall be excluded from the calculation of Recognized Losses. Purchases and sales of Colonial Securities shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance or operation of law of Colonial Securities during the Settlement Class Period shall not be deemed a purchase or sale of these securities for the calculation of an Authorized Claimant’s Recognized Loss Amount for these securities nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such securities unless: (i) the donor or decedent purchased or otherwise acquired such Colonial Securities during the Settlement Class Period; (ii) no Proof of Claim was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such securities; and (iii) the assignment is specifically provided for in the instrument of gift or assignment.

The date of covering a “short sale” is deemed to be the date of purchase of Colonial common stock. The date of a “short sale” is deemed to be the date of sale of Colonial common stock. The Recognized Loss for “short sales” is zero. In the event that there is an opening short

position in Colonial common stock, the earliest Settlement Class Period purchases shall be matched against such opening short position, and not be matched against sales, until that short position is fully covered.

To the extent a Claimant had a market gain from his, her, or its overall transactions in Colonial Securities during the Settlement Class Period, the value of the claim will be zero. Such Claimants will, in any event, be bound by the Settlement. To the extent that a Claimant suffered an overall market loss on his, her, or its overall transactions in Colonial Securities during the Settlement Class Period, but that market loss was less than the total Recognized Loss calculated above, then the Claimant's Recognized Loss shall be limited to the amount of the actual market loss.

Each Authorized Claimant shall recover his, her, or its pro rata share of the Net Settlement Fund. If the prorated claim calculates to less than \$10.00, it will be removed from the calculation and it will not be paid.

Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. Following an initial distribution of the Net Settlement Fund, if Lead Counsel, in consultation with the Claims Administrator, determined that it is cost-effective to do so, the Claims Administrator will conduct a redistribution of any funds remaining in the Net Settlement Fund by reason of returned or uncashed checks or otherwise, to Authorized Claimants who have cashed their initial distribution checks, after payment from the Net Settlement Fund of any unpaid Taxes and costs or fees incurred in administering the funds, including for such redistribution. Additional redistributions may occur thereafter to Authorized Claimants if Lead Counsel, in consultation with the Claims Administrator, determines that additional redistribution is cost-effective. When it is determined

that the redistribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance of the Net Settlement Fund shall be contributed to a non-sectarian, not-for-profit organization.

Each Claimant shall be deemed to have submitted to the jurisdiction of the United States District Court for the Middle District of Alabama with respect to his, her or its Proof of Claim.

**SPECIAL NOTICE TO SECURITIES BROKERS  
AND OTHER NOMINEES**

If you purchased Colonial Securities during the Settlement Class Period for the beneficial interest of a person or organization other than yourself, the Court has directed that, WITHIN SEVEN (7) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE, you either:

(a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased Colonial's publicly traded securities during such time period (preferably in an MS Excel data table, setting forth (i) title/registration, (ii) street address, (iii) city/state/zip; or electronically in MS Word or WordPerfect files; or on computer-generated mailing labels) or; (b) request additional copies of this Notice and the Proof of Claim, which will be provided to you free of charge, and within seven (7) calendar days of receipt of such copies send them by First-Class directly to the beneficial owners of those Colonial securities.

If you choose to follow alternative procedure (b), the Court has directed that, upon such mailing, you send a statement to the Claims Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Those

expenses will be paid after request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

*In re Colonial BancGroup, Inc. Securities Litigation*  
Claims Administrator  
c/o Strategic Claims Services

[ ]  
[ ]  
Phone: [ ]; Fax: [ ]  
[ ]@[ ].com  
[ ].com

Dated: \_\_\_\_\_, 2011

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA



# EXHIBIT A-2

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

In re	)	Civil Action No.
COLONIAL BANCGROUP, INC.	)	2:09-CV-00104-RDP-WC
SECURITIES LITIGATION	)	
	)	<b>PROOF OF CLAIM</b>
	)	<b><u>AND RELEASE</u></b>
	)	
	)	

TO HAVE AN OPPORTUNITY TO RECEIVE A SHARE OF THE SETTLEMENT FUND ESTABLISHED PURSUANT TO THE AMENDED AND RESTATED STIPULATION AND AGREEMENT OF SETTLEMENT WITH OFFICER AND DIRECTOR DEFENDANTS, DATED \_\_\_\_\_, 2011, YOU MUST COMPLETE AND SIGN THIS PROOF OF CLAIM, AND RETURN IT TO:

*IN RE COLONIAL BANCGROUP, INC. SECURITIES LITIGATION*  
Claims Administrator  
C/O Strategic Claims Services  
PO BOX 230  
600 N. Jackson Street, Suite 3  
Media, PA 19063

MAIL THIS FORM BY PREPAID, FIRST-CLASS MAIL, **POSTMARKED NO LATER THAN** \_\_\_\_\_ . FAILURE TO SUBMIT YOUR CLAIM BY \_\_\_\_\_ WILL SUBJECT YOUR CLAIM TO REJECTION AND PRECLUDE YOU FROM RECEIVING ANY MONEY IN CONNECTION WITH THE PARTIAL SETTLEMENT OF THIS ACTION.

DO NOT MAIL OR DELIVER YOUR PROOF OF CLAIM TO THE COURT, THE SETTLING PARTIES OR THEIR COUNSEL. ANY SUCH CLAIM WILL BE DEEMED NOT TO HAVE BEEN SUBMITTED. SUBMIT YOUR CLAIM ONLY TO THE CLAIMS ADMINISTRATOR.

**PART I – CLAIMANT INFORMATION**

Claimant Name (the name as you would like it to appear on the check, if you are eligible)

Claimant Name line 2 (If Applicable, will also be included on the check if eligible)

Contact Person (If Claimant is Not An Individual)

Account Number (Not Required)

Address Line 1

Address Line 2 (If Applicable)

City

State

Zip Code

Foreign Province

Country

Foreign Zip Code

Telephone Number (Day)

Telephone Number (Night)

Beneficial Owner's Employer Identification Number or Social Security Number<sup>1</sup>

Email Address (*Email address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you with information relevant to this claim.*)

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<sup>1</sup> The taxpayer identification number (TIN), consisting of a valid Social Security number (SSN) for individuals or employer identification number (EIN) for business entities, trusts, estates, etc., and telephone number of the beneficial owner(s) may be used in verifying this claim.

IDENTITY OF CLAIMANT (check only one box):

- |   |  |                                      |
|---|--|--------------------------------------|
| <input type="checkbox"/> Individual                                     | <input type="checkbox"/> Joint Owners  | <input type="checkbox"/> Estate      |
| <input type="checkbox"/> Corporation                                    | <input type="checkbox"/> Trust   | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Private Pension Fund                           | <input type="checkbox"/> IRA, Keogh, or other type of individual retirement plan |                                      |
| <input type="checkbox"/> Legal Representative                           | (indicate type of plan, mailing address, and name of current custodian)          |                                      |
| <input type="checkbox"/> Other (specify, describe<br>on separate sheet) | _____  |                                      |
|   | _____  |                                      |
|   | _____  |                                      |

## PART II - GENERAL INSTRUCTIONS

1. It is important that you completely read the Notice of Pendency of Class Action and Proposed Partial Settlement (the "Notice") that accompanies this Proof of Claim and Release ("Proof of Claim"), and the Plan of Allocation included in the Notice. The Notice contains the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Proof of Claim. By signing and submitting this Proof of Claim, you will be certifying that you have read the Notice, including the terms of the releases described therein and provided for herein.

2. This Proof of Claim is directed to any person or entity who purchased: (i) the common stock of the Colonial BancGroup, Inc. ("Colonial"); (ii) Colonial's common stock traceable to the Company's April 23, 2008 stock offering pursuant to the Registration Statement and Prospectus filed with the Securities and Exchange Commission (the "Stock Offering"); and (iii) the \$250 million worth of Subordinated Notes due in 2038, paying 8.875% interest on a quarterly basis, pursuant or traceable to Colonial's Form S-3/A Shelf Registration Statement and Prospectus dated November 12, 2004 and Form 424 (b)(2) Prospectus Supplement dated February 28, 2008 (the "Note Offering," and together with Colonial's common stock and the Stock Offering, "Colonial Securities") during the period between April 18, 2007 and August 6, 2009, inclusive (the "Settlement Class Period"), and were allegedly damaged thereby (the "Settlement Class")

3. IF YOU ARE NOT A SETTLEMENT CLASS MEMBER, OR IF YOU, OR SOMEONE ACTING ON YOUR BEHALF, FILED A REQUEST FOR EXCLUSION FROM THE SETTLEMENT CLASS, DO NOT SUBMIT A PROOF OF CLAIM. YOU MAY NOT, DIRECTLY OR INDIRECTLY, PARTICIPATE IN THE SETTLEMENT IF YOU ARE NOT A SETTLEMENT CLASS MEMBER. THUS, IF YOU FILE A VALID REQUEST FOR EXCLUSION IN A TIMELY MANNER, ANY PROOF OF CLAIM THAT YOU SUBMIT, OR THAT MAY BE SUBMITTED ON YOUR BEHALF, WILL NOT BE ACCEPTED.

4. You may only participate in the distribution of the Net Settlement Fund if you are a member of the Settlement Class and if you complete and return this form as specified below. If you fail to file a timely, properly addressed, and completed Proof of Claim, your claim may be rejected and you may be precluded from receiving any distribution from the Net Settlement Fund.

5. **Submission of this Proof of Claim does not guarantee that you will share in the Net Settlement Fund.** The distribution of the Net Settlement Fund will be governed by the Plan of Allocation set forth in the Notice, if approved by the Court, or such other plan of allocation as the Court approves.

6. Use Parts III-V of this Proof of Claim to supply all required details of your transaction(s) in Colonial Securities during the Settlement Class Period. Provide all the requested information with respect to all purchases and sales of Colonial Securities during the Settlement Class Period.

7. You are required to submit genuine and sufficient documentation for all your transactions in and holdings of Colonial Securities during the Settlement Class Period as set forth in the Schedule of Transactions in Parts III-V. Documentation may consist of copies of brokerage confirmations or monthly statements. IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OR EQUIVALENT CONTEMPORANEOUS DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS. Please keep a copy of all documents that you send to the Claims Administrator.

8. Separate Proofs of Claim should be submitted for each legal entity that has a claim. For example, if one joint owner also has an individual claim, two Proofs of Claim should be submitted. However, each Proof of Claim should include all transactions made by that entity, even if the transactions were in different accounts.

9. All joint beneficial owners must each sign this Proof of Claim. If you purchased the Colonial Securities during the Settlement Class Period and held the securities in your name, you are the beneficial owner as well as the record owner. If, however, you purchased Colonial Securities during the Settlement Class Period and the securities were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner of these securities, but the third party is the record owner.

10. Agents, executors, administrators, guardians, and trustees must complete and sign the Proof of Claim on behalf of persons represented by them, and they must:

- (a) expressly state the capacity in which they are acting;
- (b) identify the name, account number, Social Security number (or taxpayer identification number), address and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the Colonial Securities during the Settlement Class Period; and
- (c) furnish herewith evidence of their authority to bind the person or entity on whose behalf they are acting. (Authority to complete and sign a Proof of Claim cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade stock in another person's accounts.)

11. **NOTICE REGARDING ELECTRONIC FILES:** To obtain the mandatory electronic filing requirements and file layout, visit the website at [www.strategicclaims.net](http://www.strategicclaims.net) or email the Claims Administrator at [info@strategicclaims.net](mailto:info@strategicclaims.net).

12. If you have questions concerning the Proof of Claim, or need additional copies of the Proof of Claim or the Notice, you may contact the Claims Administrator, Strategic Claims Services, at the above address or by toll-free phone at 1-866-274-4004 or you may download the documents from [www.strategicclaims.net](http://www.strategicclaims.net).

**PART III – SCHEDULE OF TRANSACTIONS IN COLONIAL COMMON STOCK DURING THE SETTLEMENT CLASS PERIOD**

**A. BEGINNING HOLDINGS OF COLONIAL COMMON STOCK:**

State the total number of shares of Colonial common stock held as of the close of trading on April 17, 2007. \_\_\_\_\_ **IF NONE, CHECK HERE**

**B. PURCHASES OF COLONIAL COMMON STOCK**

Separately list each and every transaction in Colonial common stock: (i) purchased during the period between April 18, 2007 and August 6, 2009, inclusive, or (ii) purchased pursuant and traceable to the Company’s April 23, 2008 stock offering pursuant to the Registration Statement and Prospectus filed with the SEC. **IF NONE, CHECK HERE**

Date(s) of Purchase(s) (List Chronologically) <u>Month/Day/Year</u>	Number of <u>Shares Purchased</u>	Purchase Price Per Share (excluding commissions, taxes & fees)	Proof of purchase <u>enclosed</u> ○Y ○N
____/____/____	_____	\$ _____	
____/____/____	_____	\$ _____	○Y ○N
____/____/____	_____	\$ _____	○Y ○N
____/____/____	_____	\$ _____	○Y ○N

**C. SALES OF COLONIAL COMMON STOCK:**

Separately list each and every sale of Colonial common stock during the period between April 18, 2007 and August 6, 2009, inclusive. **IF NONE, CHECK HERE**

Date(s) of Sale(s) (List Chronologically) <u>Month/Day/Year</u>	Number of <u>Shares Sold</u>	Sale price per share (excluding commissions, taxes & fees)	Proof of sale <u>enclosed</u> ○Y ○N
____/____/____	_____	\$ _____	○Y ○N
____/____/____	_____	\$ _____	○Y ○N
____/____/____	_____	\$ _____	○Y ○N

\_\_\_\_/\_\_\_\_/\_\_\_\_ \$ \_\_\_\_\_ ○Y ○N

**D. ENDING HOLDINGS OF COMMON STOCK**

State the total number of shares of Colonial common stock held as of the close of trading on August 6, 2009. \_\_\_\_\_ **IF NONE, CHECK HERE**  
○

**PART IV -- SCHEDULE OF TRANSACTIONS IN COLONIAL NOTES DURING THE SETTLEMENT CLASS PERIOD**

**A. PURCHASES OF COLONIAL NOTES:**

Separately list each and every Colonial Subordinated Note purchased during the period between April 18, 2007 and August 6, 2009, inclusive, that is due in 2038, paying 8.875% interest on a quarterly basis, and pursuant or traceable to Colonial's Form S-3/A Shelf Registration Statement and Prospectus dated November 12, 2004 and Form 424 (b)(2) Prospectus Supplement dated February 28, 2008. **IF NONE, CHECK HERE**  
○

Coupon Rate/Maturity	Trade Date Month/ Day/ Year	Principal Amount	Cusip	Purchase Price per \$1000 of Principal Amount <sup>2</sup>	Aggregate Cost <sup>3</sup>

**B. SALES OF COLONIAL NOTES**

Separately list each and every Colonial Subordinated Note sold during the period between April 18, 2007 and August 6, 2009, inclusive. **IF NONE, CHECK HERE**  
○

<sup>2</sup> Excluding taxes, fees and commissions.

<sup>3</sup> Excluding taxes, fees and commissions.



Coupon Rate/Maturity	Trade Date Month/ Day/ Year	Principal Amount	Cusip	Sale Price per \$1000 of Principal Amount <sup>4</sup>	Aggregate Received <sup>5</sup>

**PART V -- SCHEDULE OF TRANSACTIONS IN COLONIAL OPTIONS DURING THE  
SETTLEMENT CLASS PERIOD**

**A. BEGINNING POSITION OF CALL OPTIONS**

At the beginning of trading on April 18, 2007, the following call options on Colonial common stock were owned:

Date of Purchase (Month/Day/Year)	Number of Contracts	Expiration Month and Year / Strike Price of Options (i.e. July 2009/\$40)	Purchase Price Per Contract	Amount Paid*	Exercised "E" or Expired "X" (leave blank if neither)	Exercise Date (Month/Day/Year)

**B. PURCHASES OF CALL OPTIONS**

Purchases, including by way of exchange, conversion or otherwise (between April 18, 2007 and August 6, 2009, inclusive) of call options on Colonial common stock:

Date of Purchase (Month/Day/Year)	Number of Contracts	Expiration Month and Year / Strike Price of Options (i.e. July 2009/\$40)	Purchase Price Per Contract	Amount Paid*	Exercised "E" or Expired "X" (leave blank if neither)	Exercise Date (Month/Day/Year)

<sup>4</sup> Excluding taxes, fees and commissions.

<sup>5</sup> Excluding taxes, fees and commissions.

**C. SALES OF CALL OPTIONS**

Sales of the above call options on Colonial common stock which call options were purchased before August 7, 2009 (include all such sales no matter when they occurred):

Date of Purchase (Month/Day/Year)	Number of Contracts	Expiration Month and Year / Strike Price of Options (i.e. July 2009/\$40)	Sale Price Per Contract	Amount Received <sup>6</sup>

**D. BEGINNING WRITTEN POSITION OF PUT OPTIONS**

At the beginning of trading on April 18, 2007 the following put options written on Colonial common stock were open:

Number of Contracts	Expiration Month and Year / Strike Price of Options (i.e. July 2009/\$40)	Sale Price Per Contract	Amount Received*	Assigned "A" or Expired "E" (leave blank if neither)	Assign Date (Month/Day/Year)

**E. SALES (WRITING) OF PUT OPTIONS**

Written (sold) put options on Colonial common stock (between April 18, 2007 and August 6, 2009, inclusive.) as follows:

Date of Writing (Sale) (Month/Day/Year)	Number of Contracts	Expiration Month and Year / Strike Price of Options (i.e. July 2009/\$40)	Sale Price Per Contract	Amount Received*	Assigned "A" or Expired "E" (leave blank if neither)	Assign Date (Month/Day/Year)

<sup>6</sup> Excluding taxes, fees and commissions.

**F. COVERING TRANSACTIONS (REPURCHASES) OF PUT OPTIONS**

Repurchases of the above put options on Colonial common stock that were written (sold) before August 7, 2009, (include all repurchases no matter when they occurred):

Date of Purchase (Month/Day/Year)	Number of Contracts	Expiration Month and Year / Strike Price of Options (i.e. July 2009/\$40)	Price Paid Per Contract	Aggregate Cost <sup>7</sup>

(IF YOU REQUIRE ADDITIONAL SPACE, ATTACH EXTRA SCHEDULES IN THE SAME FORMAT AS ABOVE. PRINT THE BENEFICIAL OWNER'S FULL NAME AND TAXPAYER IDENTIFICATION NUMBER ON EACH ADDITIONAL PAGE.)

**PART VI - CERTIFICATION****YOU MUST SIGN ON PAGE \_\_\_\_ OF THIS PROOF OF CLAIM**

I (we) hereby acknowledge that as of the Effective Date, I (we) shall: (i) have and be deemed to have fully, finally and forever waived, released, discharged and dismissed each and every one of the Released Defendant Parties from any and all of the Released Claims; (ii) have and be deemed to have covenanted not to sue any of the Released Defendant Parties with respect to any and all of the Released Claims; and (iii) forever be barred and enjoined from commencing, instituting, prosecuting or maintaining any of the Released Claims against any of the Released Defendant Parties.

By signing and submitting this Proof of Claim, the claimant(s) or the person(s) who represents the claimant(s) certifies, as follows:

1. that I (we) have read the Notice, the Plan of Allocation and the Proof of Claim, including the releases provided for in the Settlement;
2. that the claimant(s) is (are) Settlement Class Member(s), as defined in the Notice, and is (are) not excluded from the Settlement Class;
3. that the claimant(s) has (have) not submitted a request for exclusion from the Settlement Class;
4. that the claimant(s) owns(ed) the Colonial Securities identified in the Proof of Claim during the Settlement Class Period and has (have) not assigned the claim against the Released Defendant Parties to another, or that, in signing and submitting this Proof of Claim, the claimant(s) has (have) the authority to act on behalf of the owner(s) thereof;
5. that the claimant(s) has (have) not submitted any other claim covering the same purchases, sales, or holdings of Colonial Securities during the Settlement Class Period and knows of no other person having done so on his/her/its/their behalf;

<sup>7</sup> Excluding taxes, fees and commissions.

6. that the claimant(s) submits (submit) to the jurisdiction of the Court with respect to his/her/its/their claim and for purposes of enforcing the releases set forth herein;
7. that I (we) agree to furnish such additional information with respect to this Proof of Claim as the Claims Administrator or the Court may require;
8. that the claimant(s) waives (waive) the right to trial by jury, to the extent it exists, and agrees (agree) to the Court's summary disposition of the determination of the validity or amount of the claim made by this Proof of Claim; and
9. that I (we) acknowledge that the claimant(s) will be bound by and subject to the terms of any judgment that may be entered in the Litigation;

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HERewith ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

---

Signature of Claimant

---

Print Name of Claimant

---

Date

---

Signature of Joint Claimant, if any

---

Print Name of Joint Claimant

---

Date

THIS PROOF OF CLAIM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, POSTAGE PREPAID, **POSTMARKED BY** \_\_\_\_\_, ADDRESSED AS FOLLOWS:

*IN RE COLONIAL BANCGROUP, INC. SECURITIES LITIGATION*  
Claims Administrator  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 3  
Media, PA 19063

You should be aware that it will take a significant amount of time to fully process all of the Proof of Claims. Please notify the Claims Administrator of any change of address.

**REMINDER CHECKLIST**

1. Please sign the above release and certification. If this Proof of Claim is being made on behalf of joint claimants, then both must sign.
2. Remember to attach only copies of supporting documentation.
3. Please do not highlight any portion of the Proof of Claim or any supporting documents.
4. Do not send original stock certificates or documentation. These items cannot be returned to you by the Claims Administrator.
5. Keep copies of the completed Proof of Claim and documentation for your own records.
6. If you desire an acknowledgment of receipt of your Proof of Claim, please send it to the Claims Administrator Certified Mail, Return Receipt Requested.
7. If your address changes in the future, or if this Proof of Claim was sent to an old or incorrect address, please send the Claims Administrator written notification of your new address. If you change your name, please inform the Claims Administrator.
8. If you have any questions or concerns regarding your claim, please contact the Claims Administrator at the above address or at 1-866-274-4004, or visit [www.strategicclaims.net](http://www.strategicclaims.net).

# EXHIBIT A-3

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

In re )  
COLONIAL BANCGROUP, INC. ) Civil Action No.  
SECURITIES LITIGATION ) 2:09-CV-00104-RDP-WC  
)  
) **SUMMARY NOTICE OF**  
) **PENDENCY OF CLASS ACTION**  
) **AND PROPOSED PARTIAL**  
) **SETTLEMENT**

**TO: ALL PERSONS OR ENTITIES WHO PURCHASED: (I) THE COMMON STOCK OF THE COLONIAL BANCGROUP, INC. (“COLONIAL” OR THE “COMPANY”); (II) COLONIAL’S COMMON STOCK TRACEABLE TO THE COMPANY’S APRIL 23, 2008 STOCK OFFERING PURSUANT TO THE REGISTRATION STATEMENT AND PROSPECTUS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE “STOCK OFFERING”); OR (III) THE \$250 MILLION WORTH OF SUBORDINATED NOTES DUE IN 2038, PAYING 8.875% INTEREST ON A QUARTERLY BASIS, PURSUANT OR TRACEABLE TO COLONIAL’S FORM S-3/A SHELF REGISTRATION STATEMENT AND PROSPECTUS DATED NOVEMBER 12, 2004 AND FORM 424 (B)(2) PROSPECTUS SUPPLEMENT DATED FEBRUARY 28, 2008 (THE “NOTE OFFERING”), DURING THE PERIOD BETWEEN APRIL 18, 2007 AND AUGUST 6, 2009, INCLUSIVE (THE “SETTLEMENT CLASS PERIOD”), AND WHO WERE ALLEGEDLY DAMAGED THEREBY (THE “SETTLEMENT CLASS”)**

**YOU ARE HEREBY NOTIFIED**, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the Court, that the above-captioned litigation (the “Action”) has been preliminarily certified as a class action for the purposes of a partial settlement only and that a partial settlement with Robert E. Lowder, Sarah H. Moore, T. Brent Hicks, Lewis E. Beville, William Britton, Jerry J. Chesser, Augustus K. Clements, III, Robert S. Craft, Patrick F. Dye, Hubert L. Harris, Jr., Clinton O. Holdbrooks, Harold O. King, Deborah L. Linden, John Ed Mathison, Milton E. McGregor, John C.H. Miller, Jr., Joseph D. Mussafer, William E. Powell, III, James W. Rane, Simuel Sippial, Jr., Edward V. Welch, Sheila P. Moody and Kamal Hosein (the “Settling Defendants”), in the amount of \$10,500,000 in cash, has been proposed by the Settling Parties.

A hearing will be held before the Honorable R. David Proctor of the United States District Court for the Northern District of Alabama in the Frank M. Johnson United States Courthouse, One Church Street, Montgomery, AL 36104 at \_\_:\_\_\_.m., on \_\_\_\_\_, 2011 to, among other things: determine whether the proposed Settlement should be approved by the Court as fair, reasonable, and adequate; determine whether the proposed Plan of Allocation for distribution of the settlement proceeds should be approved as fair and reasonable; and consider the application of Lead Counsel for an award of attorneys' fees and reimbursement of litigation expenses. The Court may change the date of the hearing without providing another notice.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS DESCRIBED ABOVE, YOUR RIGHTS WILL BE AFFECTED BY THE PENDING LITIGATION AND THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO SHARE IN THE NET SETTLEMENT FUND. If you have not yet received the full printed Notice of Pendency of Class Action and Proposed Partial Settlement ("Notice") and a Proof of Claim and Release Form ("Proof of Claim"), you may obtain copies of these documents by contacting the Claims Administrator:

*In re Colonial Bancgroup, Inc. Securities Litigation*  
Claims Administrator  
c/o [Insert name of Claims Administrator]  
[ ]  
[ ]  
800-[ ]  
www.[ ].com

Inquiries, other than requests for information about the status of a claim, may also be made to Lead Counsel.

LABATON SUCHAROW LLP  
Thomas A. Dubbs, Esq.  
James W. Johnson, Esq.  
140 Broadway



New York, New York 10005  
888-219-6877  
settlementquestions@labaton.com.  
www.labaton.com

If you are a Settlement Class Member, to be eligible to share in the distribution of the Settlement proceeds, you must submit a Proof of Claim postmarked no later than \_\_\_\_\_, 2011. To exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice that it is received or postmarked no later than \_\_\_\_\_, 2011. If you are a Settlement Class Member and do not exclude yourself from the Class, you will be bound by the Final Order and Judgment of the Court. Any objections to the proposed Settlement, Plan of Allocation, and/or application for attorneys' fee and reimbursement of expenses must be filed with the Court and served on counsel for the Settling Parties in accordance with the instructions set forth in the Notice, such that they are received or postmarked no later than \_\_\_\_\_, 2011. If you are a Settlement Class Member and do not timely submit a valid Proof of Claim, you will not be eligible to share in the Net Settlement Fund, but you nevertheless will be bound by the Final Order and Judgment of the Court.

DATED: \_\_\_\_\_

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA

# EXHIBIT B

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

In re )  
COLONIAL BANCGROUP, INC. ) Civil Action No.  
SECURITIES LITIGATION ) 2:09-CV-00104-RDP-WC  
)  
) **[PROPOSED] FINAL ORDER AND**  
) **JUDGMENT AS TO OFFICER AND**  
) **DIRECTOR DEFENDANTS**  
)

WHEREAS:

A. On \_\_\_\_\_, 2011, Arkansas Teacher Retirement System, State-Boston Retirement System, Norfolk County Retirement System and City of Brockton Retirement System (collectively, “Lead Plaintiffs”), on behalf of themselves and the Settlement Class, and the Settling Defendants<sup>1</sup> entered into an Amended and Restated Stipulation and Agreement of Settlement with Officer and Director Defendants (the “Stipulation”) in the above-titled litigation (the “Action”).

B. Pursuant to the Revised Preliminary Approval Order Providing for Notice and Hearing in Connection With Proposed Partial Class Action Settlement, entered \_\_\_\_\_, 2011 (the “Preliminary Approval Order”), the Court scheduled a hearing for \_\_\_\_\_, 2011, at \_\_\_\_\_.m. (the “Settlement Hearing”) to, among other things: (i) determine whether the proposed partial Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable and adequate, and should be approved by the

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<sup>1</sup> The Settling Defendants are Robert E. Lowder, Sarah H. Moore, T. Brent Hicks, Lewis E. Beville, William Britton, Jerry J. Chesser, Augustus K. Clements, III, Robert S. Craft, Patrick F. Dye, Hubert L. Harris, Jr., Clinton O. Holdbrooks, Harold O. King, Deborah L. Linden, John Ed Mathison, Milton E. McGregor, John C.H. Miller, Jr., Joseph D. Mussafer, William E. Powell, III, James W. Rane, Simuel Sippial, Jr., Edward V. Welch, Sheila P. Moody and Kamal Hosein.

Court; and (ii) determine whether a judgment as provided for in the Stipulation should be entered.

C. The Court ordered that the Notice of Pendency of Class Action and Proposed Partial Settlement (the “Notice”) and a Proof of Claim and Release form (“Proof of Claim”), substantially in the forms attached to the Preliminary Approval Order as Exhibits 1 and 2, respectively, be mailed by first-class mail, postage prepaid, on or before ten (10) business days after the date of entry of the Bankruptcy Court Approval Order (“Notice Date”) to all putative Class Members who could be identified through reasonable effort, and that a Summary Notice of Pendency of Class Action and Proposed Partial Settlement (the “Summary Notice”), substantially in the form attached to the Preliminary Approval Order as Exhibit 3, be published in *Investor’s Business Daily* and transmitted over *PR Newswire* within fourteen (14) calendar days of the Notice Date.

D. The Notice and the Summary Notice advised Settlement Class Members of the date, time, place and purpose of the Settlement Hearing. The Notice further advised that any objections to the Settlement were required to be filed with the Court and served on counsel for the Settling Parties postmarked by \_\_\_\_\_, 2011.

E. The provisions of the Preliminary Approval Order as to notice were complied with.

F. On \_\_\_\_\_, 2011, Lead Plaintiffs moved for final approval of the Settlement, as set forth in the Preliminary Approval Order. The Settlement Hearing was duly held before this Court on \_\_\_\_\_, 2011, at which time all interested Persons were afforded the opportunity to be heard.

G. This Court has duly considered Lead Plaintiffs' motion, the affidavits, declarations and memorandum of law submitted in support thereof, and all of the submissions and arguments presented with respect to the proposed Settlement.

NOW, THEREFORE, after due deliberation, IT IS ORDERED, ADJUDGED AND DECREED that:

1. This Judgment incorporates by reference the definitions in the Stipulation, and all capitalized terms used in this Judgment that are not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. This Court has jurisdiction over the subject matter of the Action and over all Settling Parties to the Action, including all members of the Settlement Class.

3. The Court hereby affirms its determinations in the Preliminary Approval Order and finally certifies, for the purposes of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of all persons or entities who purchased: (i) the common stock of the Colonial BancGroup, Inc. ("Colonial"); (ii) Colonial's common stock traceable to the Company's April 23, 2008 stock offering pursuant to the Registration Statement and Prospectus filed with the Securities and Exchange Commission; and (iii) the \$250 million worth of Subordinated Notes due in 2038, paying 8.875% interest on a quarterly basis, pursuant or traceable to Colonial's Form S-3/A Shelf Registration Statement and Prospectus dated November 12, 2004 and Form 424 (b)(2) Prospectus Supplement dated February 28, 2008 during the period between April 18, 2007 and August 6, 2009, inclusive (the "Settlement Class Period"), and were allegedly damaged thereby (the "Settlement Class"). Excluded from the Settlement Class are: the current and former defendants in the Action; the current and former officers and directors of the Company; members of the immediate families of

the current and former defendants in the Action; the subsidiaries and affiliates of the Company; any entity in which the current and former defendants in the Action have or had a controlling interest; and the legal representatives, heirs, successors or assigns of any excluded person. Also excluded from the Settlement Class are those persons who timely and validly sought exclusion from the Settlement Class in accordance with the requirements set forth in the Notice. A list of those persons is contained in Exhibit A annexed hereto.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court hereby affirms its determinations in the Preliminary Approval Order and finally certifies Lead Plaintiffs Arkansas Teacher Retirement System, State-Boston Retirement System, Norfolk County Retirement System and City of Brockton Retirement System, and additional named plaintiffs The Horace F. Moyer and Joan M. Moyer Living Trust and City of Worcester, as Class Representatives for the Settlement Class; and appoints Labaton Sucharow LLP as Class Counsel for the Settlement Class.

5. The notification provided for and given to the Settlement Class was in compliance with the Preliminary Approval Order, and said notification constituted the best notice practicable under the circumstances and is in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 27 of the Securities Act of 1933, 15 U.S.C. §77z-1(a)(7), as amended by the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the PSLRA, and due process.

6. The proposed Settlement of the Action on the terms and conditions set forth in the Stipulation is in all respects fair, reasonable and adequate, in light of the benefits to the Settlement Class, the complexity, expense and possible duration of further litigation against the

Settling Defendants and the risks of establishing liability and damages and the costs of continued litigation. This Court further finds the Settlement set forth in the Stipulation is the result of arm's-length negotiations between experienced counsel representing the interests of Lead Plaintiffs, the Settlement Class and the Settling Defendants.

7. The Stipulation and the proposed Settlement are hereby approved as fair, reasonable, adequate, and in the best interests of the Settlement Class Members, and shall be consummated in accordance with the terms and provisions of the Stipulation. To the extent there were objections to the Settlement, those objections are overruled.

8. The First Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws (the "Amended Complaint"), filed April 29, 2011, is hereby dismissed in its entirety as to the Settling Defendants, with prejudice, and without costs to any Settling Party, except as otherwise provided in the Stipulation.

9. The Court further finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

10. Upon the Effective Date, Lead Plaintiffs and each and every other Settlement Class Member on behalf of themselves and each of their respective heirs, executors, trustees, administrators, predecessors, successors and assigns, shall be deemed to have fully, finally and forever waived, released, discharged and dismissed each and every one of the Released Claims against each and every one of the Released Defendant Parties and shall forever be barred and enjoined from commencing, instituting, prosecuting or maintaining any of the Released Claims against any of the Released Defendant Parties.

11. Upon the Effective Date, the Settling Defendants, on behalf of themselves and each of their respective heirs, executors, trustees, administrators, predecessors, successors and assigns by operation of the Judgment, shall be deemed to have fully, finally and forever waived, released, discharged and dismissed each and every one of the Released Defendants' Claims, as against each and every one of the Released Plaintiff Parties and shall forever be barred and enjoined from commencing, instituting, prosecuting or maintaining any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

12. Neither the Settlement nor this Order and Judgment preclude any claim by the Federal Deposit Insurance Corporation as receiver for Colonial Bank or in its corporate capacity or any claim by any other governmental or regulatory agency asserted in any criminal, administrative or civil action.

13. Pursuant to the PSLRA, 15 U.S.C. Sections 78u-4(f)(7)-(8), and applicable law, upon the Effective Date, the Court shall finally discharge all obligations to the Released Plaintiff Parties of the Settling Defendants arising out of the Action. The Court hereby bars all future claims for contribution and indemnification arising out of the Action by any person against the Settling Defendants, or by the Settling Defendants against any person, other than a person whose liability has been extinguished by the settlement of the Settling Defendants. Any final verdict or Judgment obtained in this Action shall be reduced by the greater of (a) an amount that corresponds to the percentage of responsibility of the Settling Defendants; or (b) the Settlement Amount paid on behalf of the Settling Defendants.

14. Each Settlement Class Member, whether or not such Settlement Class Member executes and delivers a Proof of Claim, is bound by this Judgment, including, without limitation, the release of claims as set forth in the Stipulation.



15. This Judgment and the Stipulation, whether or not consummated, and any negotiations, proceedings or agreements relating to the Stipulation, the Settlement, and any matters arising in connection with settlement negotiations, proceedings, or agreements, shall not be offered or received against the Settling Defendants or Lead Plaintiffs for any purpose, and in particular:

(a) do not constitute, and shall not be offered or received against the Settling Defendants as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by the Settling Defendants with respect to the truth of any fact alleged by Lead Plaintiffs and the Settlement Class or the validity of any claim that has been or could have been asserted in the Action or in any litigation, including but not limited to the Released Claims, or of any liability, damages, negligence, fault or wrongdoing of the Settling Defendants;

(b) do not constitute, and shall not be offered or received against the Settling Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Settling Defendants, or against Lead Plaintiffs or any other members of the Settlement Class as evidence of any infirmity in the claims of Lead Plaintiffs or the other members of the Settlement Class;

(c) do not constitute, and shall not be offered or received against the Settling Defendants or against Lead Plaintiffs or any other members of the Settlement Class, as evidence of a presumption, concession or admission with respect to any liability, damages, negligence, fault, infirmity or wrongdoing, or in any way referred to for any other reason against any of the Settling Parties to this Stipulation, in any other civil, criminal or administrative action or

proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(d) do not constitute, and shall not be construed against the Settling Defendants, Lead Plaintiffs or any other members of the Settlement Class, as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial;

(e) do not constitute, and shall not be construed as or received in evidence as, an admission, concession or presumption against Lead Plaintiffs or any other members of the Settlement Class or any of them that any of their claims are without merit or infirm or that damages recoverable under the Amended Complaint would not have exceeded the Settlement Amount.

16. The administration of the Settlement, and the decision of all disputed questions of law and fact with respect to the validity of any claim or right of any Person to participate in the distribution of the Net Settlement Fund, shall remain under the authority of this Court.

17. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated, and in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

18. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

19. The Settling Parties are hereby directed to consummate the Stipulation and to perform its terms.

20. A separate order shall be entered regarding Lead Counsel's application for attorneys' fees and reimbursement of expenses as allowed by the Court. A separate order shall be entered regarding the proposed Plan of Allocation for the Net Settlement Fund. Such orders shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

21. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (i) implementation of the Settlement; (ii) the allowance, disallowance or adjustment of any Settlement Class Member's claim on equitable grounds and any award or distribution of the Settlement Fund; (iii) disposition of the Settlement Fund; (iv) hearing and determining applications for attorneys' fees, costs, interest and reimbursement of expenses in the Action; (v) all Settling Parties for the purpose of construing, enforcing and administering the Settlement and this Judgment; and (vi) other matters related or ancillary to the foregoing. The Court expressly determines that there is no just reason for delay in the entry of this Judgment and immediate entry by the Clerk of the Court is expressly directed.

Dated: \_\_\_\_\_, 2011

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Honorable R. David Proctor  
UNITED STATES DISTRICT JUDGE

**EXHIBIT A**