

NO JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN RE NEW CENTURY

Case No. CV 07-00931 DDP (FMOx)
(Lead Case)

**ORDER GRANTING LEAD COUNSEL'S
MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES**

1 WHEREAS, Lead Counsel’s motion for an award of attorneys’ fees and
2 reimbursement of expenses (the “Motion”) came before the Court for hearing on
3 November 8, 2010, pursuant to the Court’s Order Preliminarily Approving
4 Settlements and Proving for Notice dated August 10, 2010 (“Preliminary Approval
5 Order,” ECF No. 489); and due and adequate notice having been given to the Class
6 as required in the Preliminary Approval Order; and the Court, having read and
7 considered the Motion and supporting declarations and exhibits and being fully
8 informed of the related proceedings, now FINDS, CONCLUDES AND ORDERS
9 as follows:

10 1. This order incorporated by reference the definitions in the Stipulations
11 of Settlement previously filed with the Court, and all capitalized terms used herein
12 shall have the same meanings as set forth in the Stipulations, unless otherwise
13 noted herein.

14 2. This Court has jurisdiction over the subject matter of the litigation and
15 over all parties to this litigation, including all members of the Class.

16 3. The Court hereby finds and concludes that due and adequate notice
17 was directed to the Class, and a full and fair opportunity was accorded to all Class
18 Members to be heard.

19 4. The Court hereby grants the attorneys’ fees and expenses requested in
20 connection with the Settlements.

21 5. The Court hereby awards attorneys’ fees of \$14,410,933.80
22 (approximately 11.5% of the total settlement amount) payable to Lead Counsel
23 Bernstein Litowitz Berger & Grossmann LLP (“Bernstein Litowitz” or “Lead
24 Counsel”). The Court also awards Lead Counsel reimbursement of litigation
25 expenses in the amount of \$3,064,348.82 payable to Lead Counsel Bernstein
26 Litowitz. The Court awards interest that has accrued on the attorneys’ fees and the
27 expenses awarded, at the same rate as earned by the settlement funds. Pursuant to
28 the Stipulations, Lead Counsel shall have the sole authority to allocate the Court-

1 awarded attorneys' fees amongst Plaintiffs' Counsel in a manner which it, in good
2 faith, believes reflects the contributions of such counsel to the prosecution and
3 settlement of the action.

4 6. Pursuant to the Stipulations, the attorneys' fees and expenses and
5 interest, as awarded by the Court, shall be paid to Lead Counsel from the
6 settlement funds immediately upon award, notwithstanding the existence of any
7 timely filed objections thereto, or potential for appeal therefrom, or collateral
8 attack on the Settlements or any part thereof.

9 7. The Court finds that an award of attorneys' fees of approximately
10 11.5% of the settlement funds is fair and reasonable and consistent with the Ninth
11 Circuit's awards utilizing the "percentage of recovery" method applicable for
12 common fund cases and is less than the Ninth Circuit's 25% "benchmark"; and in
13 consideration of the following factors, among others: the negotiation of the retainer
14 agreement and approval of the fee request by the Lead Plaintiff; the fact that there
15 are no objections to the fee and expense requests; the work performed; the
16 litigation risks faced; the results achieved; and the skill required and the quality of
17 the representation by Lead Counsel.

18 8. The Court also grants the request of Lead Plaintiff New York State
19 Teachers' Retirement System for an award of \$6,611.27, and the request of
20 Plaintiff Hooten for an award of \$3,650, pursuant to 15 U.S.C. § 78u-4(a)(4).

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///


27 ///

28 ///

1 9. There being no just reason for delay in the entry of this Order, the
2 Court hereby orders the immediate entry of this Order by the Clerk of the Court,
3 as expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil
4 Procedure.

5 IT IS SO ORDERED,

6 DATED: November 15, 2010



7
8
9 THE HONORABLE DEAN D. PREGERSON
10 UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28