

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

**PROPOSED NEW YORK CITY TEACHERS' RETIREMENT SYSTEM  
"20 YEAR PENSION" CLASS SETTLEMENT**

**To Class Member:**

**You have been identified as a potential Class member under the "20 Year Pension Class Settlement." As described in detail below, this Settlement relates to two matters brought by the United Federation of Teachers and certain retirees challenging the calculation of a specific portion of benefits available under the 20 Year Pension Plan. If you are a member of the Class described below and choose to participate in this Settlement, you will be entitled to receive a Payment from the New York City Teachers' Retirement System. Please read the attached materials carefully.**

Accordingly, enclosed for your attention and consideration are:

- A Notice describing the terms of the proposed Settlement, your rights and options (to obtain benefits under, oppose, or exclude yourself from Settlement) and the process the Court will follow in deciding whether or not to approve the Settlement.
- An Exclusion Form, to be used by a Class Member who wants to exclude himself or herself from the Settlement and thereby exclude himself or herself from receiving money under the proposed Settlement. To "opt out" from Settlement benefits, the Exclusion form must be returned no later than **August 28, 2009**. If you wish to receive money under the Settlement, do not return the Exclusion Form. **IF YOU ARE A CLASS MEMBER, NO ACTION IS REQUIRED ON YOUR PART TO RECEIVE A PAYMENT UNDER THE PROPOSED SETTLEMENT.**
- An Individual Calculation Notice, providing certain data used in calculating your estimated Payment amount.
- A Special Tax Notice Regarding Additional Plan Payments describing your right to rollover your Payment amount if you are a Retired Class Member or a Beneficiary Class Member, should you choose to participate in the Class.
- Direct Rollover Election Form. If you choose to remain in the Class and you are a Retired Class Member or a Beneficiary Class Member, you may return the Direct Rollover Election Form which allows you to choose whether or not to roll over your class benefit and if so, the recipient of that rollover.
- **IN GENERAL, IF YOU ARE A RETIRED CLASS MEMBER OR THE JOINT AND SURVIVOR OR FRACTIONAL BENEFICIARY, FIVE/TEN YEAR CERTAIN BENEFICIARY OR ALTERNATE PAYEE OF A DECEASED CLASS MEMBER AND YOU DO NOT RETURN THE ROLLOVER ELECTION FORM, YOUR PAYMENT WILL BE ISSUED AUTOMATICALLY TO YOU AS A DIRECT DISTRIBUTION. SPECIAL RULES APPLY TO RETIRED CLASS MEMBERS WHO ARE UNDER AGE 62. SEE NOTICE FOR MORE DETAILS.**

As explained in the Class Notice, you may wish to consult an attorney about your rights and options. Please do not contact the Court directly prior to the Fairness Hearing. You may appear at the **September 30, 2009 Fairness Hearing**, at 3:00 p.m., either in person, or through counsel. You may also obtain further information on the United Federation of Teachers webpage at [www.uft.org](http://www.uft.org), the Professional Staff Congress webpage at [www.psc-cuny.org](http://www.psc-cuny.org), Council of School Supervisors & Administrators webpage at [www.csa-nyc.org](http://www.csa-nyc.org), the New York City Teachers' Retirement System webpage at [www.trs.nyc.ny.us](http://www.trs.nyc.ny.us), the Class Settlement Website at [www.20yearpensionsettlement.net](http://www.20yearpensionsettlement.net), or you may contact your union representative or call the Class Settlement Hotline at 1-800-295-4716.



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I. THE LITIGATION

1. The "20 Year Pension Plan" Cases. On March 18, 2005, the United Federation of Teachers ("UFT") along with three retirees commenced two companion lawsuits on behalf of current and retired members seeking to correct certain alleged miscalculations of benefits for members of the 20 Year Pension Plan (or the "Plan").

Settlement Benefits are Described in Paragraphs 9-20

2. Background. The 20 Year Pension Plan was negotiated between the UFT, the Board of Education of the City School District of the City of New York ("BOE"), and the City of New York (the "City"), and was implemented through legislation that went into effect in 1970.

When the 20 Year Pension Plan was established, it was assumed that, based on preliminary calculations, members' contributions would be a relatively low portion of their salary. After the Plan was implemented, however, contribution rates were calculated and it became apparent that actual required contributions would be a larger portion of members' salaries than expected.

In the 1990s, the UFT noticed a discrepancy between its projection of member benefits and the actual benefits received. Upon further analysis, the UFT discovered that the discrepancies arose because the portion of interest earned during the Gap Period ("Gap Period Interest"), used towards the basic retirement benefit, had been increased over the years.

had raised the amount of interest used, *i.e.*, Gap Period Interest, in tandem with increases in the interest rate prescribed by the New York State statute governing pension rates (the "Statutory Interest Rate"). The Statutory Interest Rate was increased by the New York State Legislature several times since the inception of the 20 Year Pension Plan. Specifically, in 1977 the Statutory Interest Rate increased from 4.0% to 5.5%, and subsequently increased in 1980 to 7.5%, in 1982 to 8.0%, and in 1988 to the current rate of 8.25%. Defendants believed that the Gap Period Interest Rate properly followed the increases in the Statutory Interest Rate. Plaintiffs have alleged that the Gap Period Interest rate should have remained at 4% and should not have followed the increases in the Statutory Interest Rate.

Specifically, Plaintiffs have alleged in the companion matters that the use of Gap Period Interest in excess of 4% resulted in a miscalculation of pension benefits. This miscalculation is alleged to cause members to fund, through their contributions, more of their basic benefit than was intended when the Plan was implemented. Monies beyond those properly used to fund the basic retirement benefit generally go towards providing additional benefits for the member. Consequently, Plaintiffs allege that members were receiving and would otherwise receive a pension benefit that, in some cases, is lower than that to which they were entitled.

Defendants have taken the position that the challenged portion of the formula was calculated correctly based upon the Statutory Interest Rate. Defendants have also taken the position that Class Members have not funded more than their basic benefit, as required under the applicable state statutes.

**Save this Class Notice for periodic reference regarding rights and benefits,  
deadlines, and contact information.**

**3. The Matters So Far.** As noted in Paragraph 1, above, in March 2005, the UFT and three retirees commenced both a Declaratory Judgment action and an Article 78 proceeding to correct the alleged miscalculation of pension benefits under the Plan. The Parties engaged in negotiations to attempt to settle the dispute. In and around December 2005, it became apparent that settlement was not forthcoming. Shortly thereafter, Defendants filed a motion to dismiss Plaintiffs' Article 78 Petition and to stay discovery in the Declaratory Judgment action. In October 2006, after hearing oral argument, Justice Shafer granted the dismissal of the contract claim and dismissed the balance of Defendants' motions. The parties moved ahead with discovery. Defendants, however, sought leave from Justice Shafer to appeal her decision regarding the motion to dismiss the Article 78 Petition. In April 2007, Justice Shafer denied the motion for leave to appeal and, consequently, Defendants sought leave to appeal from the Appellate Division, First Department.

During the pendency of Defendants' request for leave to appeal, the parties reached an initial agreement on certain discovery matters. In June 2007, Defendants produced the data that Plaintiffs had requested as part of discovery. In August 2007, Defendants offered to withdraw their request for leave to appeal in exchange for establishing a discovery schedule. Shortly thereafter, the parties re-entered settlement negotiations and, in October 2007, the parties agreed to the proposed Settlement.

## **II. ABOUT CLASS ACTIONS**

**4. Nature of Class Actions.** Class actions are lawsuits in which the claims and rights of many people are decided in a single court proceeding brought by representative Plaintiffs, here Weingarten, Pappas, Ellis and Berg (the "Class Representatives"). This avoids the necessity for hundreds, or in this case, tens of thousands of people to file similar individual lawsuits, enables the court system to resolve these claims in a more efficient and economical way, and seeks to assure that prosecution and resolution of the class claims by the class representatives and class counsel is fair. **One benefit to the class format is that, Class Members are *not* individually responsible for the costs or fees of Class Counsel.** In this case, all such costs and fees have been addressed separately by Plaintiff UFT and will not reduce the amount of the Payments to Class Members.

## **III. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES**

**5. Class Certification.** On April 8, 2009, this action was conditionally certified by this Court under the New York Civil Practice Law and Rules §902 as a class action for settlement purposes on behalf of all members of the Plan who on the "Calculation Date" elected or were eligible to elect to participate in the Plan (Tier I Plan A or Tier II Plan C) and retired or will retire on or after July 1, 1977 (and joint and surviving beneficiaries, five/ten year certain beneficiaries, lump sum death beneficiaries and, in the absence of any other class of beneficiary, fractional beneficiaries, and alternate payees of such members) and may have claims against Defendants arising out of the alleged miscalculation of pension benefits. Generally, the Class includes:

(a) *Retirees:* All Plan "A" and "C" retired members of the 20 Year Pension Plan whose Earliest Payability Date (defined in Paragraph 2 above) is on or after July 1, 1977 and to whom, either themselves or their joint and surviving or fractional beneficiaries, five/ten year certain beneficiaries, lump sum death beneficiaries, or alternate payees, pension payments were payable between March 18, 2005, the date on which the matters were commenced (the "Petition Date"), and August 31, 2008, the date on which the records used to calculate the Payments will be set (the "Calculation Date");

(b) *Inactive Employees (and joint and surviving beneficiaries, five/ten year certain beneficiaries, lump sum death beneficiaries and, in the absence of any other class of beneficiary, fractional beneficiaries, and alternate payees).* All

members who elected or were eligible to elect Plan "A" or "C" (and their alternate payees) as of the Calculation Date and who were Inactive Employees between the Petition Date and the Calculation Date who could attain their EPD on or before December 31, 2020 and any joint and survivor or fractional beneficiary and/or five/ten year certain beneficiary of such Inactive Employee who died after completing 20 years of service; and

(c) *Active Employees (or, if deceased, the recipient of their death benefit).* All members who elected or were eligible to elect Plan "A" or "C" (and their alternate payees) as of the Calculation Date who were actively employed or on leave between the Petition Date and the Calculation Date and any joint and survivor or fractional beneficiary and/or five/ten year certain beneficiary of such Active Employee who died after completing 20 years of service.

Any Member of the Class, as defined above, who: (i) retired or retires under a Plan other than A or C prior to the Court's final approval of the Settlement; (ii) is an Inactive Employee and will not attain their EPD prior to December 21, 2020; or (iii) is an Inactive or Active Employee who otherwise satisfies the restrictions above and who was eligible to elect Plan A or C on the Calculation Date but does not, ultimately, elect Plan A or C prior to the Court's final approval of the Settlement, will not be entitled to a payment under the Plan of Allocation.

**6. Class Claims.** The Settlement Class claims are limited to any and all claims that were brought or could have been brought against the Defendants in the two lawsuits arising out of the alleged improper calculation of pension benefits.

**7. Class Representatives.** UFT President Randi Weingarten along with retirees Thomas Pappas, Doreen Ellis and Ronald M. Berg have been designated as the Representative Plaintiffs for the Settlement Class.

**8. Class Counsel.** Alan M. Klinger and Mark S. Wintner of Stroock & Stroock & Lavan LLP have been designated as Class Counsel.

#### **IV. SUMMARY OF PROPOSED SETTLEMENT**

**9. The Stipulation of Settlement.** The complete Stipulation of Settlement is on file with the New York County Clerk's Office, 60 Centre Street, New York, NY 10007. The Stipulation of Settlement is part of the public record and is accessible during the regular business hours of the Clerk's Office. **Copies can also be accessed through the UFT or TRS by visiting either of their websites at [www.uft.org](http://www.uft.org) or [www.trs.nyc.ny.us](http://www.trs.nyc.ny.us) as well as the Class Settlement Website.** This Class Notice summarizes the provisions of the Stipulation of Settlement in sufficient detail so that most people should not need to obtain a copy of any of the court documents themselves.

**10. Overview of Benefits.** The Plan of Allocation described in this Class Notice has been designed so that qualifying Class Members will receive direct Payments from TRS that will be calculated based upon a formula that takes into account the periodic changes in the Statutory Interest Rate used to calculate the allegedly incorrect portion of the formula. The impact of the alleged miscalculation varies depending on the length of time that an allegedly improper rate was used and how much higher that rate was than the original rate of 4%. Pursuant to Plaintiffs' construct, Class Members who retired when the Statutory Interest Rate was only slightly higher than 4% were impacted less than Class Members who retired when the Statutory Interest Rate was 8.25%. Therefore, the settlement formula is based on when the Class Members' EPD occurred and the length of his or her Gap Period. The specific method of calculation is described further in Paragraphs 13-20 below. **Please note, no action need be taken by individual Class Members in order for TRS to calculate whatever benefits he or she is entitled to under the Settlement.** TRS will calculate the Payments automatically based upon TRS's existing records and the provisions of the Stipulation of Settlement, as summarized in this Notice. The amount of each Class Member's Payment will depend on his or her EPD and the length of his or her Gap Period, as defined in Paragraph 2. TRS will begin calculating the Payments on or around December 1, 2009 and Payments will be sent out on a rolling basis thereafter.

**11. Recommendation of Class Counsel.** Class Counsel recommends the Court's approval of the proposed Settlement as fair, reasonable, and adequate, and in the best interest of the Class Members. The Settlement eliminates the risks and delays associated with any contested trial and provides recovery to all Class Members.

**12. Defendants' Position. Defendants deny any wrongdoing or any legal liability arising out of the claims brought by Plaintiffs in the two companion lawsuits. Defendants argue that there was no miscalculation of Class Members' pension benefits and that Defendants acted lawfully in using the Statutory Interest Rate in calculating the pension benefits of Class Members.** Defendants have agreed to the Settlement not only because of the risk of an adverse judgment in either of the cases, but also because of the substantial time, expense, and other burdens they would incur even in successfully defending the cases. Defendants have reserved the right to withdraw from the Settlement Agreement if the number of Class Members that opt out represents potential additional liabilities that are greater than 1.5% of the total Settlement Amount of \$160 million. This means that if Class Members with collective potential claims exceeding \$2.4 million choose to opt out, Defendants may withdraw from the Stipulation of Settlement, resulting in the Settlement being undone and no Class Members receiving any benefits hereunder.

#### **V. THE PLAN OF ALLOCATION**

**13. Generally.** The parties have agreed to settle the companion cases for a total Settlement Amount of \$160 million. The Settlement Amount will be distributed to the Class pursuant to this Plan of Allocation, which is intended to provide each Class Member with a proportional share of the Settlement Amount reflecting the Member's alleged loss of Gap Period Interest relative to other Class Members. Thus, a Class Member who experienced the alleged misapplication of higher amounts of Gap Period Interest (generally, those who retired after TRS began using 8.25%) for longer periods of time would receive a larger Payment relative to those Class Members who experienced the alleged misapplication of smaller amounts of Gap Period Interest (for example, those retiring shortly after TRS began using 5.5%) for shorter

periods of time. The differences in Payments are meant to estimate the relative claimed losses suffered by different Class Members. Any Payments that are returned to TRS or go unclaimed for six months, will be subject to Court direction.

**14. The Calculation.** In order to effectuate this Plan of Allocation, and to avoid burdensome and difficult individual calculations for the more than 45,000 Class Members, the parties have agreed on average annual dollar amounts for each year of a Class Member's Gap Period which represent a scaled estimate of the Member's relative **claimed** loss. These approximate dollar amounts are provided in the table below as "Factor A." Which dollar amount applies to a particular Class Member is determined by the year of the Member's EPD as defined in Paragraph 2. For Class Members who have not yet attained their EPD, the date is projected based upon assumed continuous service until the Member would have reached his or her EPD. Using the EPD allows the parties to take into account when, in the course of the four increases in the Statutory Interest Rate, a Member was exposed to the alleged miscalculation. This, in turn, takes into account the amount of interest above 4% that was allegedly improperly applied. Therefore, as the following table indicates, Factor A rises from 1977 to 1999 and is level from 1999 to 2009. Factor A declines from 2010 forward to reflect the present value at the Calculation Date of an amount that would not be payable until a later date. Overall, Factor A generally reflects the increases in the Statutory Interest Rate used to calculate benefits over those years.

Year of EPD	Factor A	Year of EPD (con't)	Factor A (con't)
1977	\$20	2005	500
1978	30	2006	500
1979	40	2007	500
1980	50	2008	500
1981	60	2009	500
1982	81	2010	462
1983	103	2011	427
1984	126	2012	394
1985	150	2013	364
1986	175	2014	336
1987	200	2015	310
1988	225	2016	286
1989	250	2017	264
1990	275	2018	244
1991	300	2019	225
1992	325	2020	208
1993	350	2021	192
1994	375	2022	177
1995	400	2023	164
1996	425	2024	152
1997	450	2025	140
1998	475	2026	129
1999	500	2027	119
2000	500	2028	110
2001	500	2029	102
2002	500	2030	94
2003	500	2031	87
2004	500	2032	80

**For all Class Members who have attained their EPD,** their Payment will be determined by multiplying the Factor A dollar amount corresponding to their EPD year by the number of years and months in their Gap Period, subject to the following Gap Period parameters:

- A minimum (*i.e.*, floor) of five years, and
- A maximum (*i.e.*, ceiling) of 15 years.

**For Class Members who have not yet attained their EPD,** TRS will calculate a predicted EPD based on assumed continuous service from the Calculation Date (August 31, 2008). The corresponding Factor A amount from the table is then multiplied by the Gap Period, calculated using the predicted EPD. Where a Class Member has also not yet attained his or her 20 Year Date (used to calculate the Gap Period), a predicted 20 Year Date based upon assumed continuous service from the Calculation Date will be used. This calculation is subject to the same minimum Gap Period (five years) and maximum Gap Period (15 years) as described in the preceding paragraph. Because these individuals have not yet attained their EPD, this amount represents monies they would be entitled to in the future. Therefore, the Payment actually paid out will reflect the approximate present value of this Payment.

**15. The Payment.**

**For Active and Inactive Class Members and Their Related Alternate Payees.** Once calculated as described above, pursuant to the parameters set out in Paragraph 5 above, such Class Members will receive their Payment as a one-time

special credit to their Increased-Take-Home-Pay ("ITHP") account.

**For Retired Class Members and Their Related Alternate Payees.** Once calculated, these Class Members will receive a direct payment from TRS, unless the Class Member elects to rollover his or her Payment, or is under Age 62 and his or her Payment is equal to or greater than \$1,000. (As to this last group and for more information on rollover, please see Paragraph 18 and the enclosed Special Tax Notice Regarding Additional Plan Payments).

**For Beneficiary Class Members (including: joint and survivor or fractional beneficiaries, five/ten year certain beneficiaries, death benefit beneficiaries and alternate payees of deceased Class Members).** Like Retired Class Members, these Class Members will receive a direct payment from TRS unless the Class Member elects to rollover his or her Payment. (For more information on rollover, please see Paragraph 18 and the enclosed Special Tax Notice Regarding Additional Plan Payments).

**16. Completeness of TRS Records.** As is clear from the summary of the Plan of Allocation in the preceding paragraphs, the calculation requires certain information for each Class Member. TRS was able to identify more than 45,000 Class Members. Of the Class Members identified, TRS believes it has complete and reliable data for the great majority of them. To the extent TRS is missing specific information on a Class Member, TRS will estimate the appropriate data based upon the other known data contained in the record.

**17. Your Calculation.** Included as part of this Notice is an **Individual Calculation Notice** containing TRS' current information showing you: (i) name; (ii) month and year of birth; (iii) TRS Identification Number; (iv) the last four digits of your Social Security Number; (v) length of Gap Period; (vi) retirement date (if applicable); (vii) EPD; and (viii) estimated Payment. The estimated Payment represents the Member's estimated Payment amount under the settlement. If you are a fractional beneficiary or an alternate payee of a Member, your Payment amount under the settlement will be your proportional share of the Member's Payment based upon the percentage of the Member's benefit that you are receiving. To the extent TRS is able to locate some but not all fractional beneficiaries, those beneficiaries will receive their proportional share, as described above. In the event that TRS cannot, through reasonable efforts, determine the intended proportions to be used, the Payment will be divided equally/among the Member's fractional beneficiaries. As a result, for beneficiaries, the actual Payment may be less than the amount stated on the Individual Calculation Notice.

**Incorrect Information.** If you determine that certain information contained in your **Individual Calculation Notice**, which affects the amount of your Estimated Payment, is incorrect **and** you have documentation supporting the correct information, you may mail copies of the supporting documentation to the address stated in the Individual Calculation Notice to make a request for correction. **Any such request for correction must be received by June 1, 2009 in order to be considered by TRS.** If you fail to make such request prior to June 1, 2009, you will be deemed to have approved the information contained in your **Individual Calculation Notice**. TRS will, within its discretion, correct challenged information if such challenge is based upon substantial credible evidence by August 3, 2009. TRS has the sole authority in determining the validity of any requests for corrections and will only grant those requests that are supported by substantial credible evidence. Please note that a correction may result in a lower Payment. For guidance as to how to present substantial credible evidence in support of a challenge, you may contact Class Counsel by calling Dina Kolker, Esq. at (212) 806-5400 or by sending correspondence to Stroock & Stroock & Lavan LLP, c/o Dina Kolker, 180 Maiden Lane, New York, New York 10038.

**18. Rollover Election.** Attached to this Notice is a Special Tax Notice Regarding Additional Plan Payments describing your right with regard to deciding how to receive your Payment if you are a Retired Class Member or a Beneficiary Class Members' (as described in Paragraph 15 above). **Rollover Election does not apply to either Active or Inactive Class Members (or their alternate payees).** As described in Paragraph 15, above, Active and Inactive Class Members and their respective alternate payees will receive their Payments as a credit to their ITHP account.

For Retired Class Members and Beneficiary Class Members, as described more completely in the Special Tax Notice, you may choose to rollover your Payment or have it paid directly to you. Annexed to the Special Tax Notice is the Direct Rollover Election Form for Additional Plan Payments, on which, you would make such election. **If you do not return the election form and you are age 62 or older or you will receive less than \$1,000, your Payment will be issued directly to you.** For Retired Class Members under the age of 62 who will receive a Payment of \$1,000 or more, TRS will deposit your Payment into Accounts ("Accounts") within TRS which maintain the same features as ITHP Accounts except as otherwise specified herein. The Payments deposited in these Accounts will be invested in the TRS Stable-Value Fund (Variable B Annuity Program), which is a fund that invests primarily in Guaranteed Investment Contracts ("GIC's"), and shall remain in such Fund until one of the following occurs: (i) the Retired Class Member notifies TRS of his/her intent to receive a distribution of the funds in his or her Account; (ii) the Retired Class Member reaches age 62 or dies, whichever is earlier. Absent a prior request by the Member, once the Retired Class Member reaches age 62, TRS will make a good faith effort to contact the Member or his/her surviving beneficiaries, as applicable, and inform the Member or surviving beneficiary of his/her distribution options.

For all Beneficiary Class Members (see Paragraph 15, above), if the Direct Rollover Election Form is not returned the Payment will be made directly to such person without regard for age or amount.

**19. Unknown Class Members.** Although the parties believe that they are able to identify nearly all the potential Class Members, because the Class reaches back to those Members who retired as early as 1977, TRS may not be able to locate complete records for every Class Member. Because the Settlement Amount is limited, it is necessary in the initial estimation to set aside a small portion of the total amount to cover Class Members that may be discovered prior to the Payment Date, and to allow for any errors in the factual predicates of the calculation that may need to be corrected prior

to the Payment Date. To the extent any Class Member or any factual errors are later identified, they must be raised no later than June 1, 2009. Should the Court approve of the Settlement, the actual distribution on the Payment Date will reflect the entire Settlement Amount. Accordingly, the distributions may be different than the amount shown on your **Individual Calculation Notice**. There will be no further payments made, absent further agreement by the parties and direction by the Court.

**20. Timing of Payments.** The Payment Date is set for December 1, 2009. TRS will begin sending out checks pursuant to the Plan of Allocation described herein on a rolling basis.

#### **VI. ATTORNEYS' FEES AND EXPENSES**

**21. Class Counsel's Fees and Expenses.** The UFT is responsible for fees and expenses of Class Counsel.

#### **VII. OPT OUT RIGHTS OF CLASS MEMBERS**

**22. Opt Out Right.** Because this class action is conditionally certified under N.Y. Civil Practice Law and Rules §902, potential Class Members may exclude themselves from the Settlement Class, if they so desire. The effects of opting out and remaining in the Settlement Class are discussed in Paragraphs 24-27 below.

To exercise the right to opt out, you must complete and sign the enclosed **Exclusion Form** and return it, postmarked no later than **August 28, 2009**, to:

**NYC TRS Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 6002  
Larkspur, CA 94977-6002**

**The Exclusion Form should NOT be sent directly to the Clerk of the Court.**

**If you file an Exclusion Form and the Settlement is approved by the Court, you will not be eligible to receive any money under the Settlement.**

**23. Personal and Individual Choice; Effect on Others.** The decision whether to exclude yourself from the Settlement Class is yours alone. It should be made only after considering the effects of that decision on your rights. You should be aware, however, that if potential Class Members whose Estimated Payments account for more than 1.5% of the total Settlement Amount opt out, Defendants would have the option of withdrawing from the settlement – which would affect the benefits afforded to persons wanting to participate in the Settlement and could lead to cancellation of the Settlement.

#### **VIII. IF YOU OPT OUT**

**24. Effect of Exclusion.** If you opt out by **August 28, 2009** (the opt out deadline):

- (a) You will **NOT** be eligible to receive any money under the Plan of Allocation.
- (b) You will retain any rights you may have to file or pursue – **at your own expense** or as part of another class action – any claims and lawsuits against Defendants concerning the alleged improper calculation of that portion of the formula used to calculate a 20 Year Pension having to do with the application of Gap Period Interest. In the event you opt out and bring your own claim against the Defendants, such claim would be pursued by you at your own expense. State laws may limit the time within which any suits must be filed. Defendants have taken the position in these actions that Class Members who retired more than four months prior to the commencement of these actions in March 2005 may be barred by such laws. You should consider the effect such laws may have on your claims and may consult an attorney to that effect. The existence or terms of the Stipulation of Settlement or this Class Notice cannot be used as evidence of any admission by Defendants regarding fault, liability, level of damages, or any similar issue.

#### **IX. IF YOU REMAIN IN THE CLASS**

**25. Effects of Remaining in the Settlement Class.** If you are a Class Member and do not opt out by the opt-out deadline, you will remain a Class Member without taking any further action. As a Class Member:

- (a) You will be entitled to receive a Payment pursuant to the Plan of Allocation, described in Paragraphs 13 to 20 and the Individual Calculation Notice.
- (b) You may present any written comments or objections concerning the proposed Settlement you want the Court to consider at the Fairness Hearing and may appear in person or through counsel at the hearing. Those objections may include objections as to the adequacy of the Class Representatives or Class Counsel.
- (c) You will be Members of the Settlement Class whose rights are determined by the Settlement Agreement and the Order and Judgment and you will release any further claims against Defendants arising out of TRS' alleged misapplication of Gap Period Interest, including but not limited to: (i) any and all potential claims that were raised or could have been raised relating to the three proposed resolutions presented to the Board of Trustees of TRS at their meeting held on December 21, 2000, and (ii) any and all claims arising out of the computation of the interest rate applied to the required member contributions during the Gap Period. You will retain any rights to any claims or lawsuits for matters not released by the Settlement Agreement. State laws may limit the time within which such actions must be filed.

**26. Your Calculation.** As described more fully in Paragraph 17, enclosed is your **Individual Calculation Notice** providing your estimated Payment and certain information used by TRS to calculate that estimate. If any of the information provided in the **Individual Calculation Notice** that effects the calculation of your estimate is inaccurate, you

may follow the procedure set out in Paragraph 17, above.

**27. Rollover Election.** As explained in Paragraph 18, above, and in the attached Special Tax Notice and Election Form, for certain Class Members, if you do not return a completed Election Form to TRS, your Payment will be issued directly to you.

#### **X. FAIRNESS HEARING**

**28. Final Hearing; Purposes.** The Court has preliminarily approved this Settlement as fair, reasonable, and adequate to the Settlement Class, but the Court will conduct a hearing to make a final determination whether the proposed Settlement is fair, reasonable, and adequate and should be approved. **The Court will hold the Fairness Hearing on September 30, 2009 at 3:00 p.m. at the Supreme Court of New York, County of New York, 80 Centre Street, Rm. 276, New York, New York 10007.** The Court may, without further notice to Class Members, continue or adjourn and reconvene the hearing in the same or other courthouse as may be suitable in light of any objections or other comments from Class Members.

(a) Any Class Member who does not elect to be excluded from the Settlement Class may present comments or objections to the proposed Settlement by mailing the same, postmarked no later than **August 28, 2009** to:

**NYC TRS Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 6002  
Larkspur, CA 94977-6002**

Any request to appear at the Fairness Hearing, in person or through counsel, must be clearly indicated on the written submission and mailed, postmarked no later than **August 28, 2009**. Anyone submitting comments or objections to the proposed Settlement no later than **August 28, 2009**, and providing a telephone number where he or she may be reached, will receive confirmation of the date and location of the final Fairness Hearing by telephone. **You may also appear at the hearing either in person or through counsel without submitting written comments or objections.**

(b) Class Members who support the proposed Settlement need not appear at the hearing or submit any comments. Any Class Member not submitting written comments or objections by August 28, 2009, and not appearing at the Fairness Hearing on September 30, 2009 either in person, or through counsel will be deemed to have waived objection and be foreclosed from objecting (by appeal or otherwise) to the proposed Settlement.

#### **XI. REPRESENTATION**

**29. Employment of Attorneys.** You may retain an attorney of your own choice for advice concerning your rights, but you will be responsible for the fees and expenses of such attorney. You are not required, however, to have private counsel in order to participate in the Class and receive money under the proposed Settlement.

#### **XII. ADDITIONAL INFORMATION**

**30. Court Filing.** You may inspect documents on file with the Court at the New York County Clerk's Office, 60 Centre Street, New York, NY 10007, during regular business hours and may obtain copies of these documents (including the Stipulation of Settlement and Order Conditionally Certifying the Settlement Class and Preliminarily Approving the Settlement) by payment of fees charged by the Clerk's Office copy machines. Please note, the office of the Clerk of the Court is not permitted to give legal advice.

**31. Assistance.** You should save this Class Notice for reference concerning your rights and benefits, the important deadlines, and contact information. You should not contact the Court. You may obtain further information concerning the proposed Settlement and your rights and options in any one or more of the following ways:

- (a) by visiting the UFT webpage at [www.uft.org](http://www.uft.org);
- (b) by visiting the Class Settlement Webpage at [www.20yearpensionsettlement.net](http://www.20yearpensionsettlement.net)
- (c) by calling the Class Settlement Hotline at 800-295-4716.
- (d) by visiting the TRS webpage at [www.trs.nyc.ny.us](http://www.trs.nyc.ny.us);
- (e) by visiting the PSC webpage at [www.psc-cuny.org](http://www.psc-cuny.org);
- (f) by visiting the CSA webpage at [www.csa-nyc.rog](http://www.csa-nyc.rog); or
- (g) by contacting representatives at these entities.

This Class Notice was approved on April 8, 2009, by the Honorable Marilyn Shafer, Justice for the Supreme Court of the State of New York, after consulting with Class Counsel and counsel for Defendants, for distribution to putative Class Members as an official notice of the Court.

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Honorable Marilyn Shafer, JSC

**Attachment:** Exclusion Form  
Individual Calculation Notice  
Special Tax Notice Regarding Additional Plan Payments  
Direct Rollover Election Form for Additional Plan Payments