

SETTLEMENT AGREEMENT

This Settlement Agreement (hereinafter, "Agreement") is made and entered into this 7th day of February, 2017, by and among Defendant Piper Jaffray & Co. (hereinafter "Defendant") and Plaintiff Fresno County Financing Authority ("Plaintiff"). This Agreement is intended by Defendant and Plaintiff (collectively, "Settling Parties") to fully, finally and forever resolve, discharge and settle the Released Claims, and to dismiss with prejudice all claims that were or could have been asserted against the Defendant and/or the Releasees in the Actions, upon and subject to the terms and conditions hereof.

RECITALS

WHEREAS, Plaintiff filed suit and instituted an action against Defendant and others by the filing of a complaint, which action was transferred to the United States District Court for the Southern District of New York and consolidated for pretrial proceedings with *In re Municipal Derivatives Antitrust Litigation*, MDL Docket No. 1950;

WHEREAS, Plaintiff thereafter filed various amended complaints, including the Joint Second Amended Class Action Complaint (dated December 15, 2009);

WHEREAS, Plaintiff has alleged, among other things, that: (1) Defendant violated Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1, the California Cartwright Act, Cal. Bus. & Prof. Code Section 16720, *et seq.*, the California False Claims Act, Cal. Gov. Code Section 12650, *et seq.*, and the California Unfair Competition Law, Cal. Bus. & Prof. Code Section 17200, *et seq.*, by rigging bids, limiting competition, and fixing prices in the alleged market for Municipal Derivative Transactions in the United States and its territories; and (2) these acts caused Plaintiff to incur damages;

WHEREAS, Defendant has denied and continues to deny: (1) each and all of the claims and allegations of wrongdoing made by Plaintiff and maintains furthermore that it has meritorious defenses; (2) all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Actions, and Defendant vigorously contends that the factual allegations in Plaintiff's complaint relating to it are materially inaccurate; and (3) the allegations that Plaintiff was harmed by any conduct by Defendant alleged in the Actions or otherwise;

WHEREAS, Plaintiff and Defendant agree that neither this Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by Defendant or of the truth of any of the claims or allegations alleged in the Actions;

WHEREAS, arm's length settlement negotiations have taken place between Defendant and Plaintiff's Counsel, and this Agreement, which embodies all of the terms and conditions of the settlement between Defendant and Plaintiff, is intended to supersede any prior agreements between the Settling Parties regarding the Settlement;

WHEREAS, Plaintiff has concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Joint Second Amended Class Action Complaint filed in MDL Docket No. 1950 (dated December 15, 2009), the legal and factual defenses thereto, and the applicable law, that it would be in Plaintiff's best interests to enter into this Agreement in order to avoid the uncertainties of litigation; and

WHEREAS, Defendant, despite the belief that it is not liable for the claims Plaintiff asserts against it and that it has good and meritorious defenses thereto, has nevertheless

agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and thereby to put to rest this controversy with respect to Plaintiff and avoid the risks inherent in complex litigation.

AGREEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff and Defendant, by and through their counsel and attorneys of record, that the Actions and the Released Claims as against Defendant and other Releasees shall be finally and fully settled, compromised and dismissed on the merits and with prejudice upon and subject to the terms and conditions of this Agreement, as follows:

A. Definitions

1. As used in this Agreement the following terms have the meanings specified below.

- (a) “Actions” means *In re Municipal Derivatives Antitrust Litigation*, MDL Docket No. 1950, Master Docket No. 08-2516 (VM) (GWG), and the individual case filed by Plaintiff and consolidated and/or included as part of that MDL.
- (b) “Court” means the United States District Court for the Southern District of New York.
- (c) “Defendant” means Piper Jaffray & Co.
- (d) “Effective Date” means the first date by which all of the events and conditions specified in Paragraph 5 of this Agreement have occurred and have been met.
- (e) “Execution Date” means the date this Agreement is executed by the last party to do so.

(f) “Municipal Derivative Transactions” means any transactions that government, quasi-government, non-profit, private and other entities eligible to issue tax-exempt debt now use or have used at any time since January 1, 1992 to (i) invest the proceeds of tax-exempt debt offerings or (ii) hedge or manage the interest rate risk associated with such debt offerings. These investment vehicles include, but are not limited to, all of the types of transactions described in Paragraphs 61 to 79 of the Joint Second Amended Class Action Complaint filed in MDL Docket No. 1950 (dated December 15, 2009), and in Paragraphs 58 to 71 of the Corrected Third Consolidated Amended Class Action Complaint filed in MDL No. 1950 (dated October 9, 2013).

(g) “Person(s)” means an individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, municipality, state, state agency, any entity that is a creature of any state, any government or any political subdivision, authority, office, bureau or agency thereof, and any business or legal entity and any spouses, heirs, predecessors, successors, representatives or assignees of any of the foregoing.

(h) “Plaintiff” means Fresno County Financing Authority.

- (i) "Plaintiff's Counsel" means Scott+Scott, Attorneys At Law LLP and Lieff Cabraser Heimann & Bernstein, LLP.
- (j) "Released Claims" means any and all manner of claims, demands, debts, obligations, rights, actions, suits, causes of action, fees, costs, penalties, damages whenever incurred, and liabilities of any nature whatsoever, known or unknown (including, but not limited to, "Unknown Claims"), suspected or unsuspected, asserted or unasserted, in law or in equity, which Releasors or any of them, whether directly, representatively, derivatively, or in any other capacity, ever had, now have or hereafter can, shall or may have against Defendant and/or any of the Releasees, relating in any way to any conduct prior to the Execution Date and arising out of or related in any way to (i) the purchase or delivery of Municipal Derivative Transactions in the United States or its Territories during the period from January 1, 1992 to the Execution Date, or (ii) any conduct alleged in the Actions or that could have been alleged by Plaintiff in the Actions against Defendant and/or any of the Releasees. The Released Claims shall include, but are not limited to, all claims based on any purported conspiracy involving Defendant or any of the Releasees arising out of or related to the allegations in the Actions (including, but not limited to, all claims under the Sherman Antitrust Act, California's Cartwright Act, the California Unfair Competition Law and the California False Claims

Act, and any other federal or state statute or common law, or the law of any foreign jurisdiction), and all claims based on any allegedly fraudulent or other tortious conduct by Defendant and/or any of the Releasees arising out of allegations in the Actions. Nothing in this definition of “Released Claims” shall be construed to affect the obligations of the Settling Parties under any agreement between Defendant and any Releasor to invest the proceeds of tax-exempt debt offerings. Released Claims shall only be released by Releasors against Releasees only as provided in this Agreement, and all of Releasor’s claims against any Person other than Releasees shall remain in the Actions, as more fully set forth in Paragraph 21, below.

- (k) “Releasees” means Defendant and its direct and indirect parents and subsidiaries, past and present affiliates, holding entities, and their respective present and former officers, directors, employees, managers, members, partners, agents, shareholders (in their capacity as shareholders), attorneys and legal representatives, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing. As used in this paragraph, “affiliates” means entities controlling, controlled by or under common control with a Releasee.
- (l) “Releasors” means Plaintiff on its own behalf and on behalf of its respective direct and indirect parents, subsidiaries, divisions,

groups, and affiliates, its present and former officers, directors, employees, agents, attorneys (in their capacity as attorneys for Plaintiff in the Actions) and legal representatives, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing. As used in this paragraph, “affiliates” means entities controlling, controlled by or under common control with a Releasor. Notwithstanding anything to the contrary herein, Releasors do not include The California County Tobacco Securitization Agency.

- (m) “Settlement” means the settlement of the Released Claims set forth herein.
- (n) “Settlement Amount” means the amount of nine thousand dollars (\$9,000.00) to be paid by Defendant for the settlement of the Released Claims;
- (o) “Settling Parties” means, collectively, Defendant and Plaintiff.
- (p) “Unknown Claims” means any Released Claim that a Releasor does not know or suspect to exist in his, her or its favor at the time of the release of Releasees that if known by him, her or it, might have affected his, her or its settlement with and release of Releasees, or might have affected his, her or its decision to enter into this Settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Plaintiff shall expressly waive the provisions, rights and benefits

equivalent to California Civil Code § 1542 (to the extent it applies to the Actions), 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.

Releasors shall expressly waive rights and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, that is similar, comparable or equivalent in effect to California Civil Code § 1542. Releasors may hereafter discover facts in addition to or different from those that any of them now know or believe to be true with respect to the subject matter of the Released Claims, but Releasors shall expressly have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Releasors acknowledge that the foregoing waiver was separately bargained for and is a key element of the Settlement of which this release is a part.

B. Settlement Amount

2. **Payment by Defendant.** Defendant shall pay the amount of nine thousand dollars (\$9,000.00) to Lieff Cabraser Heimann & Bernstein, LLP for Plaintiff's account. The Settlement Amount constitutes the total payment that Defendant is required to make in connection with this Settlement Agreement. Each party shall bear its own fees and costs.

3. **No Additional Payments by Defendant.** Under no circumstances will Defendant be required to pay more or less than the Settlement Amount pursuant to this Agreement and the Settlement set forth herein.

4. **Releases.** Upon the Effective Date, the Releasors, and any other Person claiming (now or in the future) to be acting through or on behalf of any Releasor, shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims against Releasees and shall have covenanted not to sue the Releasees with respect to all such Released Claims, and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any such Released Claim against any of the Releasees.

C. Conditions of Settlement, Cancellation or Termination

5. **Effective Date.** Within seven (7) calendar days of the Execution Date, Plaintiff shall file in Court an agreed upon stipulation of dismissal with prejudice of all of Plaintiff's claims against Defendant in the Actions, signed by the Settling Parties. The Effective Date of this Agreement shall occur upon Plaintiff's filing of such stipulation of dismissal.

6. **Timing of Payment.** The Settlement Amount shall be paid to Plaintiff's Counsel, as provided in Paragraph 2 above, within twenty (20) calendar days after the later of (i) the Effective Date and (ii) the date by which Plaintiff provides Defendant's counsel

with a completed W-9 Form, wiring instructions, and the name and phone extension of an individual authorized to confirm wiring instructions and receipt of funds. Upon payment of the Settlement Amount, any and all remaining interest or right of Defendant in the Settlement Amount shall be absolutely and forever extinguished.

7. Failure of Payment to Occur. If any of the conditions specified in Paragraph 6, above, are not met, then Plaintiff shall be entitled to enforce this Agreement against Defendant, including under the theory of specific performance, in the Court pursuant to Paragraphs 12 and 13, below, and subject to and in accordance with Paragraph 9, below.

D. No Admission of Liability

8. Final and Complete Resolution. The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between them with respect to the Actions and/or the subject matter thereof and to compromise claims that are contested, and it shall not be deemed an admission by any Settling Party as to the merits of any claim or defense or any allegation made in the Actions.

9. Use of Agreement as Evidence. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, of any allegation made in the Actions, or of any wrongdoing or liability of Releasees; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any liability, fault or omission of the Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement

shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that the Releasees may file this Agreement and/or the stipulation of dismissal provided for in Paragraph 5 of this Agreement in any action for any purpose, including, but not limited to, in order to support a Releasee's defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

E. Miscellaneous Provisions

10. **Confidentiality.** The Settling Parties realize that this Agreement shall be subject to public disclosure pursuant to, among others, the Ralph M. Brown Act, the California Public Records Act, and all other applicable laws pertaining to disclosure by public entities. The Settling Parties also agree, unless required by law or court order, that all agreements and orders entered into during the course of the Actions relating to the confidentiality of information shall survive this Agreement for the term of such agreements or orders including, but not limited to, the Protective Order Governing Confidential Information in the Actions, dated November 5, 2008.

11. **Voluntary Settlement.** The Settling Parties agree that the Settlement Amount and the other terms of the Settlement as described herein were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

12. **Consent to Jurisdiction.** Defendant and Plaintiff hereby irrevocably submit to the exclusive jurisdiction of the Court only for the specific purpose of any suit, action, proceeding or dispute arising out of or relating to this Agreement or the applicability of this Agreement.

13. Resolution of Disputes; Retention of Exclusive Jurisdiction. Any disputes between or among Defendant and Plaintiff (or their counsel) concerning matters contained in this Agreement shall, if they cannot be resolved by negotiation and agreement, be submitted to the Court. The Court shall retain exclusive jurisdiction over the implementation and enforcement of this Agreement.

14. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

15. Authorization to Enter Settlement Agreement. The undersigned representatives of Defendant and Plaintiff represent that they are fully authorized to enter into and to execute this Agreement on behalf of Defendant and Plaintiff. Plaintiff, through its undersigned counsel, represents that it is fully authorized to provide the releases in Paragraph 4 of this Agreement.

16. Cooperation. The Settling Parties agree to take all actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

17. Notices. All notices under this Agreement shall be in writing. Each such notice shall be given either by (a) e-mail, (b) hand delivery, (c) registered or certified mail, return receipt requested, postage pre-paid, (d) Federal Express or similar overnight courier, or (e) first class mail, postage pre-paid, and shall be addressed as follows:

For Defendant:

J Jackson
Dorsey & Whitney LLP
Suite 1500, 50 South Street
Minneapolis, Minnesota 55402-1498
jackson.j@dorsey.com

For Plaintiffs:

Sylvia Sokol
Scott & Scott, Attorneys At Law LLP
The Chrysler Building
405 Lexington Avenue, 40th Floor
New York, New York 10174-4099
ssokol@scott-scott.com

Eric B. Fastiff
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, California 94111
efastiff@lchb.com

18. **No Conflict Intended.** The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement.

19. **No Party Deemed to Be the Drafter.** None of the parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

20. **Choice of Law.** This Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of California, and the rights and obligations of the parties to this Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California without giving effect to that State's choice of law principles.

21. **Reservation of Rights as to Persons Other Than Releasees.** This Agreement, or any part hereof, does not settle or compromise, or extend to or affect any claims, including any claims for damages or restitution, by Plaintiff, including any Releasor, asserted, or that may be asserted, in any of the Actions against any defendant or potential defendant other than Releasees, including any such claims that may relate to sales

and conduct of Defendant. All rights and claims of Plaintiff, including any Releasor, against any Persons other than Releasees are specifically reserved by Plaintiff, including any Releasors.

22. **Amendment; Waiver.** This Agreement shall not be modified in any respect except by a writing executed by all the parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving party. The waiver by any party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement.

23. **Execution in Counterparts.** This Agreement 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. Counsel for the Settling Parties shall exchange PDF copies of the signed counterparts by email and originally signed counterparts by U.S. mail.

24. **Integrated Agreement.** This Agreement constitutes the entire agreement between the Settling Parties regarding the Settlement and no representations, warranties or inducements have been made to any party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein.

IN WITNESS WHEREOF, the parties hereto, through their fully authorized representatives, have executed this Agreement as follows.

<p>PLAINTIFF FRESNO COUNTY FINANCING AUTHORITY</p> <p>By: </p> <p>Brian Pacheco, Chairperson</p> <p>Dated: <u>Feb. 7, 2017</u></p> <p>ATTEST:</p> <p>BERNICE E. SEIDEL, Clerk Board of Supervisors</p> <p>By <u>Susan Bishop</u> Deputy</p>	<p>APPROVED AS TO FORM BY COUNSEL FOR PLAINTIFF</p> <p>By:</p> <p>Sylvia Sokol Scott + Scott, Attorneys at Law, LLP The Helmsley Building 230 Park Avenue 17th Floor New York, New York 10169-1820 Tel.: (212) 223-6444</p> <p>Dated:</p> <p>Eric B. Fastiff Lieff Cabraser Heimann & Bernstein, LLP 275 Battery Street, 29th Floor San Francisco, California 94111 Tel.: (415) 956-1000</p> <p>Dated:</p>
<p>ON BEHALF OF DEFENDANT PIPER JAFFRAY & CO.</p> <p>By:</p> <p>J Jackson Dorsey & Whitney LLP Suite 1500, 50 South Street Minneapolis, Minnesota 55402-1498 Tel.: (612) 340-2760 <i>Attorneys for Defendant Piper Jaffray & Co.</i></p> <p>Dated: _____</p>	

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<p>ON BEHALF OF DEFENDANT PIPER JAFFRAY & CO.</p> <p>By: </p> <p>J Jackson Dorsey & Whitney LLP Suite 1500, 50 South Street Minneapolis, Minnesota 55402-1498 Tel.: (612) 340-2760 Attorneys for Defendant Piper Jaffray & Co.</p> <p>Dated: <u>March 17, 2017</u></p>	

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PLAINTIFF FRESNO COUNTY FINANCING AUTHORITY By: _____ Brian Pacheco, Chairperson Dated: _____	APPROVED AS TO FORM BY COUNSEL FOR PLAINTIFF By: <i>Sylvia Sokol</i> Sylvia Sokol Scott + Scott, Attorneys at Law, LLP The Helmsley Building 230 Park Avenue 17th Floor New York, New York 10169-1820 Tel.: (212) 223-6444 Dated: <i>1/31/17</i> <i>Eric B. Fastiff</i> Eric B. Fastiff Lieff Cabraser Heimann & Bernstein, LLP 275 Battery Street, 29th Floor San Francisco, California 94111 Tel.: (415) 956-1000 Dated: <i>1/31/17</i>
ON BEHALF OF DEFENDANT PIPER JAFFRAY & CO. By: <i>J. Jackson</i> J Jackson Dorsey & Whitney LLP Suite 1500, 50 South Street Minneapolis, Minnesota 55402-1498 Tel.: (612) 340-2760 Attorneys for Defendant Piper Jaffray & Co. Dated: <i>March 17, 2017</i>	