

Exhibit A

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

CHRISTINE BAUER-RAMAZANI and
CAROLYN B. DUFFY, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

TEACHERS INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA - COLLEGE
RETIREMENT AND EQUITIES FUND
(TIAA-CREF), COLLEGE RETIREMENT
AND EQUITIES FUND (CREF), TEACHERS
INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA (TIAA),
TIAA-CREF INVESTMENT
MANAGEMENT, LLC (TCIM), TEACHERS
ADVISORS, INC. (TAI), AND TIAA-CREF
INDIVIDUAL AND INSTITUTIONAL
SERVICES, LLC,

Defendants.

Docket No. 1:09-cv-190

CLASS ACTION SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into this 31st day of January, 2014, by and between (i) defendants Teachers Insurance and Annuity Association of America - College Retirement Equities Fund,¹ Teachers Insurance and Annuity Association of America (“TIAA”), College Retirement Equities Fund (“CREF”), TIAA-CREF Investment Management, LLC, Teachers Advisors, Inc., and TIAA-CREF Individual and Institutional Services, LLC (collectively, “Defendants”) and (ii) plaintiffs Christine Bauer-Ramazani and Carolyn B. Duffy, individually and on behalf of the Class in connection with claims asserted in *Bauer-Ramazani, et al. v. Teachers Insurance and Annuity Association of America-College*

¹ Plaintiffs name Teachers Insurance and Annuity Association of America - College Retirement Equities Fund as a defendant, but it is not a distinct legal entity, and the acronym TIAA-CREF is a trade name under which various TIAA- and CREF-affiliated entities do business.

Retirement Equities Fund, et al., Case No. 09-CV-190 (the “Action”). Christine Bauer-Ramazani and Carolyn Duffy are collectively referred to herein as “Plaintiffs.”

RECITALS

WHEREAS, Plaintiffs are prosecuting the Action on their own behalf and on behalf of a Class; and

WHEREAS, Plaintiffs have alleged, among other things, that Defendants violated the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by paying them the value of their investment units on the date of receipt of their transfer or withdrawal requests where funds were not transferred or distributed within seven days of the date the account was valued, and failing to pay investment gains; and

WHEREAS, Plaintiffs have conducted an investigation into the facts and the law regarding the Action, conducted discovery, and have concluded that a settlement with Defendants, according to the terms set forth below, is in the best interests of Plaintiffs and the Class; and

WHEREAS, The parties participated in mediation over several sessions, ultimately agreeing to the material terms set forth herein to resolve their dispute; and

WHEREAS, Defendants deny the material allegations of the Action; deny any liability whatsoever; believe that they acted at all times reasonably, prudently, and loyally in compliance with ERISA; have asserted defenses and would assert certain other defenses if this Settlement is not consummated, believe they have meritorious defenses to the claims alleged, and are entering into the Settlement solely to avoid the cost, disruption, and uncertainty of litigation.

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which

is hereby acknowledged, it is agreed by and among the undersigned that the Action be settled, compromised, and dismissed on the merits with prejudice as to Plaintiffs, the Settlement Class, and Defendants, subject to the approval of the Court, on the following terms and conditions.

I. DEFINITIONS

The following terms, as used in this Agreement, have the following meanings:

1. “Accounts” means (i) the eight variable annuity accounts offered by defendant CREF including: Stock, Global Equities, Growth, Equity Index, Bond Market, Inflation-Linked Bond, Social Choice, and Money Market (the “CREF Accounts”), (ii) the TIAA Real Estate Account, which is a variable annuity account that invests primarily in real estate and real estate-related investments (the “REA”), and (iii) the TIAA VA-3 Access Account.

2. “Action” means the lawsuit filed in the United States District Court for the District of Vermont as Case No. 1:09-cv-190, currently styled as *Bauer-Ramazani, et al. v. Teachers Insurance and Annuity Association of America - College Retirement Equities Fund (TIAA-CREF), et al.*

3. “Administrative Expenses” means all expenses incurred by the Settlement Administrator for the (i) Notice to the Class, including preparation, mailing, and emailing of the Class Settlement Notice and internet publication of the notice, (ii) receipt and processing of opt-out requests submitted by Settlement Class Members under this Settlement, (iii) as necessary, preparation and mailing of the CAFA Notice under 28 U.S.C. § 1715, (iv) preparation of status reports to the Settling Parties and the Court, (v) processing and distribution to the Settlement Class of the Settlement Fund, including up to three attempts to best deliver returned checks to Settlement Class Members, including skip tracing, (vi) providing a toll-free number for inquiries

about the Settlement Agreement or the Settlement and responding to any such inquiries, and (vii) such other tasks as approved by Class and Defendants' Counsel.

4. "Attorneys' Fees and Costs" means the sum of three million three hundred thousand dollars (\$3,300,000) that shall be separate and apart from the Settlement Amount and shall represent the exclusive compensation recoverable by Class Counsel in connection with the Action and subject to Court approval.

5. "CAFA" means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715.

6. "CAFA Notice" means a notice of the proposed Settlement in compliance with the requirements of CAFA to be served upon the appropriate State official of each State and the Attorney General of the United States, or the appropriate federal official, as set forth below in Section IV and in substantially the form attached hereto as Exhibit A.

7. "Class" means all persons, including all 'persons' as defined by 29 U.S.C. § 1002(9), who at any time during the Class Period requested a transfer or distribution of funds held in a CREF or TIAA variable annuity account covered by ERISA whose funds were not transferred or distributed within seven days of the date the account was valued and were denied the investment gains. The parties mutually agree that the Class consists solely of current or former participants or their beneficiaries who, during the Class Period, requested a transfer or distribution of funds held in a CREF or TIAA variable annuity account covered by ERISA, whose funds were not transferred or distributed within seven days of the Effective Date and who did not receive TFE gains associated with those transfers or distributions.

8. "Class Counsel" means Norman Williams and Robert B. Hemley of the law firm of Gravel & Shea PC and Harley S. Tropin, Thomas A. Tucker Ronzetti, and Kenneth R. Hartmann of the law firm Kozyak Tropin & Throckmorton, P.A.

9. “Class Member” means an individual who is a member of the Class.
10. “Class Period” means the period August 17, 2003 through and including May 9, 2013.
11. “Class Representatives” means Christine Bauer-Ramazani and Carolyn B. Duffy.
12. “Class Settlement Notice” means the Notice of Proposed Class Action Settlement and Fairness Hearing to be mailed by first class mail and, where email addresses are reasonably available, to be emailed to Class Members by the Settlement Administrator following the Court’s issuance of the Preliminary Approval Order, in substantially the form attached as Exhibit 1 to the Preliminary Approval Order, attached hereto as Exhibit B.
13. “Court” means the United States District Court for the District of Vermont.
14. “Days” means calendar days.
15. “Defendants” means Teachers Insurance and Annuity Association of America - College Retirement Equities Fund, Teachers Insurance and Annuity Association of America, College Retirement Equities Fund, TIAA-CREF Investment Management, LLC, Teachers Advisors, Inc., and TIAA-CREF Individual and Institutional Services, LLC, and each of their agents, parents, subsidiaries, affiliates, predecessors, joint ventures, or successors. By including Teachers Insurance and Annuity Association of America - College Retirement Equities Fund in this definition, Defendants do not agree that Teachers Insurance and Annuity Association of America - College Retirement Equities Fund is a juridical entity subject to suit under ERISA or any other law.
16. “Effective Date” means the business day on which a transaction is effective under the terms of the applicable variable annuity account prospectus. For purposes of allocating the

Settlement Amount, the date on which a transaction is reflected as having been effective in Defendants' records shall be used as the Effective Date.

17. "Fairness Hearing" means the hearing scheduled by the Court to consider (i) any objections from Class Members to the Settlement Agreement, (ii) Class Counsel's Petition for Attorneys' Fees and Costs and Class Representatives' Service Awards, and (iii) whether to finally approve the Settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure.

18. "Final" means, with respect to any judicial ruling or order, that the period of time for any appeals, petitions, motion for reconsideration, rehearing, or certiorari or any other proceedings for review ("Review Proceeding") has expired without the initiation of a Review Proceeding, or, if a Review Proceeding has been timely initiated, that there has occurred a full and final disposition of any such Review Proceeding without a reversal or modification, including the exhaustion of proceedings in any remand and/or subsequent appeal after remand.

19. "Final Approval" means the Court's final approval of the Settlement Agreement.

20. "Final Approval Order and Judgment" or "Final Order" means the proposed Order Granting Final Approval to the Class Action Settlement and Final Judgment. A proposed Final Approval Order and Judgment is attached hereto as Exhibit C.

21. "Final Date" means the first date on which the Final Approval Order and Judgment is in effect and has become Final.

22. "Preliminary Approval Order" means the order proposed by the Settling Parties and approved by the Court in connection with the Motion for Preliminary Approval of Proposed Class Action Settlement to be filed by Plaintiffs through their counsel, in substantially the form attached hereto as Exhibit B.

23. “Processing Date” means the date when processing of a redemption, transfer, or withdrawal request is completed.

24. “Released Claims” means any and all claims, liabilities, demands, causes of action, or lawsuits, debts, damages, costs, attorneys’ fees, obligations, judgments, expenses, compensation, or liabilities known or unknown (including Unknown Claims), and whether anticipated or unanticipated, of whatever kind or nature, character, and description—whether legal, statutory, equitable, or of any other type or form, whether under state or federal law, and whether brought in a representative or any other capacity—that were or could have been raised in the Action. The Released Claims include all claims meeting this description under all applicable statutes, regulations, or common law.

25. “Released Settling Parties” means Teachers Insurance and Annuity Association of America - College Retirement Equities Fund, Teachers Insurance and Annuity Association of America, College Retirement Equities Fund, TIAA-CREF Investment Management, LLC, Teachers Advisors, Inc., TIAA-CREF Individual and Institutional Services, LLC, and any and all of their current or former parents, affiliates, subsidiaries, predecessors and successors, as well as any of their current or former officers, directors, trustees, overseers, employees, agents, attorneys, insurers, reinsurers, auditors, accountants, committees, fiduciaries, administrators, actuaries, representatives, retained experts, and natural person trustees.

26. “Releasers” means the Plaintiffs and each Settlement Class Member individually and collectively, as well as his or her predecessors, successors, attorneys, partners, heirs, executors, administrators, beneficiaries, representatives, agents, and assigns.

27. “Settlement” means the settlement provided for in this Agreement.

28. “Settlement Administrator” means Epiq Systems, or a similarly qualified firm selected by Class Counsel, subject to Defendants’ approval, and subject to supervision by Class Counsel and Defendants.

29. “Settlement Agreement” or “Agreement” means this Settlement Agreement and the exhibits attached hereto.

30. “Settlement Amount” means the sum of nineteen million five hundred thousand dollars (\$19,500,000), contributed to the Settlement Fund pursuant to Section III. The Settlement Amount shall be the exclusive, full, and sole monetary payment to or on behalf of the Settlement Class, made by or on behalf of Defendants in connection with the Settlement effectuated through this Settlement Agreement, and exclusive of Administrative Expenses and Attorneys’ Fees and Costs.

31. “Settlement Class” means all Class Members who do not exclude themselves from the settlement in the manner and time prescribed by the Court in the proposed Preliminary Approval Order.

32. “Settlement Class Member” means a Class Member who does not exclude himself or herself from the settlement in the manner and time prescribed by the Court in the proposed Preliminary Approval Order.

33. “Settlement Fund” means an interest-bearing account established by Class Counsel into which the Defendants shall deposit the Settlement Amount.

34. “Settling Parties” means the Plaintiffs, the Settlement Class, and the Defendants.

35. “Unknown Claims” means any Released Claims which Plaintiffs or Class Members neither know nor suspect exist in their favor at the time of the Settlement which, if known to them, might have affected the Settlement and release of the Released Settling Parties.

II. RELEASE AND COVENANT NOT TO SUE

36. By executing this Agreement, the Settling Parties acknowledge that, upon entry of the Final Approval Order and Judgment by the Court, the Action shall be dismissed with prejudice, an order of dismissal with prejudice shall be entered, and all Released Claims shall thereby be conclusively settled, compromised, satisfied, and released by the Releasors as to the Released Settling Parties. The Final Approval Order and Judgment shall provide for and effect the full and final release, by Plaintiffs and all Settlement Class Members, of all Released Claims.

37. Effective upon the Final Date, Plaintiffs and the other Releasors shall be deemed to have, and by the operation of the Final Order, shall have fully, finally, and forever released, relinquished, and discharged all Released Settling Parties of the Released Claims.

38. The Settling Parties intend and agree that the releases granted herein shall be effective as a bar to any and all currently unsuspected, unknown, or partially known claims within the scope of their express terms and provisions. Accordingly, Plaintiffs and the Settlement Class Members hereby expressly waive any and all rights and benefits respectively conferred upon them by the provisions of Section 1542 of the California Civil Code and all similar provisions of the statutory or common laws of any other State, Territory, or other jurisdiction. Section 1542 reads in pertinent part: "A general release does not extend to claims that the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." The Settling Parties hereby acknowledge that the foregoing waiver of the provisions of Section 1542 of the California Civil Code and all similar provisions of the statutory or common law of any other State, Territory, or other jurisdiction was separately bargained for and that Defendants would not enter into this Settlement Agreement unless it included a broad release of unknown

claims. The Settling Parties each expressly agree that all release provisions in this Settlement Agreement shall be given full force and effect in accordance with each and all of their express terms and provisions, including those terms and provisions relating to unknown, unsuspected, and future claims, demands, and causes of action. Plaintiffs assume for themselves, and on behalf of the Settlement Class Members, the risk of their respective subsequent discovery or understanding of any matter, fact, or law, that if known or understood, would in any respect have affected their entering into this Settlement Agreement.

39. Plaintiffs and Settlement Class Members hereby acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the Released Claims, but that it is their intention to and they do hereby fully, finally, and forever settle and release all of the Released Claims, known or unknown, suspected or unsuspected, that they have or may have against the Released Settling Parties. In furtherance of such intention and release, the release herein given by Plaintiffs and Settlement Class Members to the Released Settling Parties shall be and remain in effect as a full and complete general release of all claims notwithstanding the discovery or existence of any such additional different claims or facts.

40. Plaintiffs and Settlement Class Members covenant and agree: (i) not to assist in, organize, commence, or assert, as class members or otherwise, against any Released Settling Party any action or claim based on, involving, incorporating, or arising, directly or indirectly, from any Released Claim or any allegation or claim that compliance with the provisions of this Settlement Agreement violates any law, obligation, or duty; and (ii) that the foregoing covenants and agreements shall be a complete defense to any such claims against any of the respective Released Settling Parties.

41. The releases set forth in paragraphs 36 through 40 are not intended to include the release of any rights or duties arising out of this Settlement Agreement, including the express warranties and covenants in this Settlement Agreement.

III. SETTLEMENT AMOUNT AND SETTLEMENT FUND

42. Class Counsel shall establish an interest-bearing account as soon as practicable but no later than the filing of the Motion for Preliminary Approval of Proposed Class Action Settlement, to accommodate Defendants' deposit of the Settlement Amount into the Settlement Fund.

43. Within seven (7) days after entry of the Preliminary Approval Order, Defendants shall deposit the Settlement Amount into the Settlement Fund.

44. Class Counsel and the Settlement Administrator shall not disburse the Settlement Fund or any portion thereof except as provided in this Settlement Agreement, in an order of the Court, or a subsequent written stipulation between Class Counsel and counsel for Defendants.

IV. COURT APPROVAL AND CLASS SETTLEMENT NOTICE

45. Preliminary Approval. On or before January 31, 2014, Plaintiffs will file a motion with the Court for preliminary approval of the proposed class action settlement and for entry of an order in the form annexed hereto as Exhibit B (the "Preliminary Approval Order") and all related ancillary documents, such as the form of class notice, collectively, the "Preliminary Motion." Plaintiffs shall give the Defendants at least ten (10) days to review the Preliminary Motion before filing.

46. CAFA Notice. Within ten (10) days after the filing of the Motion for Preliminary Approval of Proposed Class Action Settlement, if deemed necessary by Defendants, the Settlement Administrator will cause to be served upon the appropriate State official of each State

and the Attorney General of the United States, or the appropriate federal official, the CAFA Notice. The Settlement Administrator shall promptly notify Class Counsel and counsel for Defendants upon service of the CAFA Notice.

47. Class Settlement Notice. Subject to the requirements of the Preliminary Approval Order, the Settlement Administrator shall cause the Class Settlement Notice to be mailed, emailed and published on the internet in accordance with Section V of this Agreement. The Class Settlement Notice shall conform to the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Local Rules of the District Court for the District of Vermont, and any other applicable law.

48. The Fairness Hearing. In their Motion for Preliminary Approval of Proposed Class Action Settlement, Plaintiffs will ask the Court to set a hearing no earlier than 180 days after entry of the Preliminary Approval Order, at which the Court will consider whether the Settlement is fair, reasonable, and adequate (the “Fairness Hearing”).

49. Final Order. On or after the Fairness Hearing, the Court will determine whether to enter judgment finally approving the Settlement and dismissing the Action as against any and all Released Settling Parties. A copy of the proposed Final Order is attached hereto as Exhibit C. The Settling Parties covenant and agree that they will take all reasonable steps and reasonably cooperate with one another in obtaining the Final Order as contemplated hereby at the Fairness Hearing and will not do anything inconsistent with obtaining that Final Order.

50. Dismissal with Prejudice. Upon the entry of the Final Order, the Action and all claims asserted therein shall be dismissed with prejudice as against the Defendants.

V. CLASS SETTLEMENT NOTICE

51. Within twenty (20) days of the Court’s entry of the Preliminary Approval Order,

Defendants shall identify and provide to the Settlement Administrator, as are reasonably available to Defendants through Defendants' current records, the names of Class Members, their last known addresses to which the Class Settlement Notice shall be sent, their last known email addresses, and their social security numbers. Such provision to the Settlement Administrator shall be in electronic format, *e.g.*, in spreadsheet or database format. Such information shall be used exclusively and solely for purposes of providing notice and administering and distributing the Settlement Amount and shall be subject to the terms of the Protective Order on file in this Action ("Protective Order"). Class Counsel shall provide the Protective Order to the Settlement Administrator and the terms of said Administrator's engagement shall include a representation and agreement that the Settlement Administrator shall abide by the terms of the Protective Order and that the information provided to the Settlement Administrator shall be kept confidential and used exclusively and solely for purposes of administering and distributing the Settlement Amount.

52. As soon as practicable, but no later than forty (40) days after the Court's entry of the Preliminary Approval Order, the Settlement Administrator shall send or cause to be sent, by first-class United States Mail and by email (if provided), to every Class Member a copy of the Class Settlement Notice. Before the mailing of the Settlement Notices, the Settlement Administrator will obtain or cause to be obtained address updates utilizing a National Change of Address database. In mailing such Class Settlement Notices, the Settlement Administrator will use any updated addresses thus obtained.

53. As soon as practicable, but no later than thirty (30) days after the Court's entry of the Preliminary Approval Order, the Settlement Administrator or Class Counsel shall cause the Class Settlement Notice to be published on the internet website described in paragraph 55,

below.

54. The Settling Parties agree that the Class Settlement Notice provides to the Class Members information sufficient to inform Class Members of the essential terms of this Agreement, appropriate means for obtaining additional information regarding the Agreement and the Action, and appropriate information about the procedure for objecting to or excluding themselves from the Settlement, if they should wish to do so. The Class Settlement Notice shall also inform Class Members of the Fairness Hearing to be held before the Court, on a date to be determined by the Court, at which any Class Member satisfying the conditions set forth in the Preliminary Approval Order and the Class Settlement Notice may be heard regarding the terms of the Agreement.

55. To facilitate the efficient administration of this Settlement, and to promote compensation to Settlement Class Members pursuant to the Settlement, Class Counsel will utilize an internet website to enable Class Members to read the Class Settlement Notice, the Agreement, and such other information and materials as agreed to by the Settling Parties. The internet website shall be used exclusively for the purpose of disseminating the information specified herein, or such other materials and information as mutually agreed to by the Settling Parties.

56. The Settling Parties agree that the dissemination of the Class Settlement Notice by mail and email where available and the additional notice by internet website publication of the Class Settlement Notice in the manner specified above satisfies the notice requirements of Due Process and Rule 23 of the Federal Rules of Civil Procedure. The Settling Parties jointly request the Court to approve, in the Preliminary Approval Order, the direct mailing, emailing, and internet website publication of the Class Settlement Notice.

57. No later than twenty-one (21) days prior to the Fairness Hearing, Class Counsel will obtain from the Settlement Administrator and file with the Court a declaration of compliance with this plan of notice, including a statement of the number of Class Members to whom the Class Settlement Notice was mailed and the number and names of the Class Members who timely requested exclusion from the Settlement Class.

VI. SETTLEMENT CLASS DATA AND PAYMENTS FROM THE SETTLEMENT FUND

58. Defendants have provided or will provide summary and raw data to Plaintiffs and the Settlement Administrator representing each Class Member's Personal Identification Number ("PIN") and his or her ERISA plan transfer and withdrawal request transactions during the Class Period (a) that involved the redemption of units or shares in an Account for which the per-unit value of the Account was higher on the Processing Date than on the Effective Date recorded in Defendants' records and (b) for which the Processing Date, as recorded in Defendants' records, was more than seven (7) days after the Effective Date recorded in Defendants' records. Each such transaction shall be a "Qualifying Transaction." Defendants have also provided or will provide a calculation of the difference between the per-unit value of each Account on the Effective Date and the Processing Date of the transaction, multiplied by the number of units of that Account that were redeemed as part of the transaction. The data provided shall be the "Qualifying Transaction Data."

59. Upon notification from the Settlement Administrator of the Class Members who have opted out of the Settlement, if any (see *infra*), Defendants shall identify the Qualifying Transactions by Settlement Class Member, aggregating the Qualifying Transactions by PIN, from the Qualifying Transaction Data ("Settlement Class Qualifying Transaction Data") and provide such data to the Settlement Administrator and Class Counsel not later than twenty-one

(21) days after the notice from the Settlement Administrator of the Class Members who timely submitted written requests for exclusion. Such information shall be used exclusively and solely by the Settling Parties and the Settlement Administrator for purposes of administering and distributing the Settlement Amount and shall be subject to the terms of the Protective Order.

60. Each Settlement Class Member's "Individual Settlement Claim" shall be the sum of the amounts as determined by the Settlement Class Qualifying Transaction Data associated with each Settlement Class Member by PIN.

61. Each Settlement Class Member shall be paid his or her pro rata share of the Settlement Fund (net of the Class Representatives' Service Awards and including any earnings of the Settlement Fund) based on the proportion that that Settlement Class Member's Individual Settlement Claim bears to the total of all Settlement Class Members' Individual Settlement Claims.

62. Within thirty (30) days of entry of the Final Order, the Settlement Administrator shall mail the Settlement Payment to Settlement Class Members in the form of a check payable directly to each Settlement Class Member. Settlement Payment checks shall be sent via first-class mail, postage prepaid to the addresses maintained by the Settlement Administrator. The Settlement Administrator will make up to three attempts, including by using skip tracing, to best deliver returned checks to Settlement Class Members. Settlement Class Members shall have one hundred and eighty (180) days after the date of the instrument in which to cash the checks. The unused funds associated with any Settlement Payment check that remains undeliverable after three attempts or is not cashed within the 180-day period may be used by Defendants to satisfy the non-monetary considerations for settlement pursuant to Section VII.

63. The Settlement Administrator shall provide to Class Counsel and Defendants' counsel (a) the name of each Settlement Class Member to whom the Settlement Administrator sent a Settlement Payment and the amount of each payment, and (b) the name of each Settlement Class Member whose Settlement Payment was returned as undeliverable, the amount of each undelivered payment, and the efforts made by the Settlement Administrator to identify the correct address for the Settlement Class Member.

VII. NON-MONETARY CONSIDERATIONS FOR SETTLEMENT

64. For a period of five (5) years, Defendants shall describe their Effective Date valuation and Processing Date practices in the CREF and REA annual prospectuses in detail comparable to the most recent CREF prospectus. A copy of the relevant language in the most recent CREF prospectus is attached hereto as Exhibit D. The prospectuses are available on the TIAA-CREF corporate website (www.tiaa-cref.org).

65. Defendants will, on two occasions, include language in their quarterly participant statements notifying participants that a description of Defendants' operational practices may be found in the section of the CREF and REA prospectuses relating to transactions in the individual participant's account.

VIII. COSTS OF NOTICE AND CLASS ADMINISTRATION

66. In addition to the Settlement Amount, Defendants will pay the Administrative Expenses of the Settlement Administrator.

67. Defendants shall not be responsible for any cost that may be incurred by, on behalf of, or at the direction of Plaintiffs, Plaintiffs' Counsel, Class Members, or Class Counsel in (i) responding to inquiries about the Agreement, the Settlement, or the Action (other than the Settlement Administrator's expenses associated with responding to such inquiries); (ii) defending

the Agreement or the Settlement against any challenge to it; or (iii) defending against any challenge to any order or judgment entered pursuant to the Agreement, unless otherwise expressly and specifically agreed to by the Settling Parties.

IX. ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS

68. As part of the Settlement, Defendants have agreed to pay Class Counsel reasonable Attorneys' Fees and Costs in addition to the Settlement Payments, as may be approved by the Court. The payment of Attorneys' Fees and Costs shall not be paid out of or reduce the Settlement Fund.

69. The amount of Attorneys' Fees and Costs to be paid to Class Counsel, if approved by the Court, shall not be more than three million three hundred thousand dollars (\$3,300,000) without objection from Defendants. If the Court approves such award, the approval shall be stated in an order of the Court.

70. Defendants shall deposit three million three hundred thousand dollars (\$3,300,000) for Attorneys' Fees and Costs in an interest-bearing account within seven (7) days after entry of the Preliminary Approval Order, and the entirety of the account shall be paid directly to the account of Gravel & Shea, P.A., upon entry of the Court's Final Order.

71. For their endeavors on behalf of the Class, Class Representatives shall be paid up to seven thousand five hundred dollars (\$7,500) each as a Service Award to the Class Representatives, subject to the Court's approval. The payment shall be made from the Settlement Fund.

72. The Court's or an appellate court's failure to approve, in whole or in part, any award of Attorneys' Fees and Costs to Class Counsel, or any Service Award, shall not prevent the occurrence of the Final Date, nor shall such non-approval be grounds for termination of the

Agreement. In the event the Court declines to approve, in whole or in part, the payment of Attorneys' Fees and Costs to Class Counsel in the amounts agreed to by Class Counsel and Defendants or the payment of any Service Award, the remaining provisions of this Agreement shall remain in full force and effect. Any appeal of the Final Approval Order and Judgment based solely on Attorneys' Fees and Costs or Service Awards shall not have any effect on the validity or finality of the Settlement, as such matters are not the subject of any agreement among the Settling Parties other than as set forth above.

X. OPT OUTS

73. Any Class Member shall have the right to opt out of the Class by sending a written request for exclusion from the Settlement Class to the Settlement Administrator's address listed in the Class Settlement Notice, postmarked no later than forty-five (45) days before the Fairness Hearing, which deadline shall be set forth in the Class Settlement Notice.

XI. TERMINATION

74. Within fourteen (14) days after the deadline for timely and properly opting out from the Settlement Class, the Settlement Administrator shall provide to counsel for Defendants a list of the names and addresses of the Class Members who have opted out. Within ten (10) days of receiving this list, if greater than ten percent (10%) of Class Members opt out, Defendants shall, in their sole discretion, have the collective option to terminate, without liability, this Agreement, by delivering notice of termination which shall prevent final settlement approval, making this Agreement null and void.

75. Automatic termination of this Settlement Agreement, thereby making it null and void, will occur if the Court declines to approve the Settlement, declines to approve the Final

Order in any material respect, or if, under any Review Proceedings, the Court's order approving the Settlement is reversed.

76. In the event of termination for any reason, all funds paid by Defendants, and any interest earned thereon, shall revert to Defendants, the Settlement will be of no force and effect, and the litigation shall resume as if this Settlement had not occurred.

XII. REPRESENTATIONS AND WARRANTIES

77. The Settling Parties and each of them represent and warrant that they are voluntarily entering into this Settlement Agreement as a result of arm's length negotiations among their counsel; that in executing this Settlement Agreement they are relying solely on their own judgment, knowledge, and belief, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Settlement Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by any party or by any person representing any party to this Settlement Agreement. Each of the Settling Parties assumes the risk of mistake as to facts or law.

78. The Settling Parties and each of them represent and warrant that they have carefully read the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each person executing this Settlement Agreement on behalf of each of the Settling Parties. The Settling Parties and each of them further represent and warrant to each other that he, she, or it has made such investigation of the facts pertaining to the Settlement, this Settlement Agreement, and all of the matters pertaining thereto, as he, she, or it deems necessary.

79. The Settling Parties, and each of them represent and warrant that they have not relied on any statement, representation, omission, inducement, or promise of any other Party (or any officer, agent, employee, representative, or attorney for any other Party) in executing this Agreement, or in making the Settlement provided for herein, except as expressly stated in this Agreement.

80. The Settling Parties and each of them represent and warrant that each term of this Agreement, under the titles of the various paragraphs, is contractual and not merely a recital.

XIII. MISCELLANEOUS PROVISIONS

81. No Responsibility for Taxes. Defendants shall have no responsibility for any taxes due on funds once deposited in the Settlement Fund, or after payment of Attorneys' Fees and Costs or the Class Representative Service Awards, if approved by the Court. Nothing herein shall constitute an admission or representation that any taxes will or will not be due on the Settlement Fund, Attorneys' Fees and Costs, or Class Representative Service Awards.

82. Cooperation in Effectuating Settlement and Obtaining Approval of this Agreement and Dismissal of Claims. Plaintiffs and Defendants shall use their best efforts to effectuate this Agreement, including cooperating to resolve questions concerning settlement class data, in the drafting of preliminary approval documents, and in securing the prompt, complete, and final dismissal with prejudice of the Action as to Defendants.

83. No Assignment of Claims. Plaintiffs and the Settlement Class warrant that they have not assigned or transferred to any person any portion of any Released Claims that are released, waived, and discharged by this Settlement Agreement.

84. No Admission of Liability. The Settling Parties understand and agree that this Settlement Agreement embodies a compromise settlement of disputed claims, and that nothing in

this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding of wrongdoing by any of the Defendants, or give rise to any wrongdoing or admission of wrongdoing or liability in this or any other past or future proceedings. This Settlement Agreement and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. The Defendants expressly deny any liability or wrongdoing with respect to the matters alleged in the Action. Defendants believe and assert that they acted at all times reasonably, prudently, and loyally in compliance with ERISA and other laws.

85. Modifications. The Settlement Agreement may not be modified or amended, nor may any of its provisions be waived, except in writing signed by all signatories hereto or their successors-in-interest.

86. Severability. The provisions of this Settlement Agreement are not severable.

87. Waiver. The waiver of one Settling Party of any breach of this Settlement Agreement by any other Settling Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

88. Entire Agreement. This Settlement Agreement constitutes the entire agreement between and among the Settling Parties hereto concerning the Settlement, and no representations, warranties, or inducements have been made by any Settling Party concerning this Settlement Agreement other than those contained and memorialized herein.

89. Counterparts. This Settlement Agreement may be executed by exchange of executed signature pages by facsimile or Portable Document Format (“PDF”) as an electronic mail attachment, and any signature transmitted by facsimile or PDF via electronic mail for the purpose of executing this Settlement Agreement shall be deemed as an original signature for

purposes of this Settlement Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the signatories of this Settlement Agreement shall exchange among themselves original signed counterparts within ten (10) days of their signing the Settlement Agreement.

90. Binding Effect. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties hereto.

91. Construction. None of the Settling Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provisions hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provisions to be construed against the drafter thereof.

92. Authority of Counsel. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of his or her respective clients, subject to Court approval.

93. Survival. All representations, warranties, and covenants set forth in this Settlement Agreement shall be deemed continuing and shall survive the Final Date of Settlement and the termination or expiration of this Settlement Agreement.

94. Notices. Any notice, demand, or other communication under this Settlement Agreement (other than the Class Settlement Notice) shall be in writing and shall be provided by email, overnight delivery, or hand delivery to counsel for that party.

IF TO PLAINTIFFS:

Norman Williams, Esq.
Robert B. Hemley, Esq.
Gravel & Shea PC
76 St. Paul Street, 7th Floor, P. O. Box 369
Burlington, VT 05402-0369

Phone: (802) 658-0220
Fax: (802) 658-1456
nwilliams@gravelshea.com
rhemley@gravelshea.com

and

Thomas A. Tucker Ronzetti, Esq.
Kenneth Hartmann, Esq.
Kozyak Tropin & Throckmorton, P.A.
2525 Ponce de Leon, 9th Floor
Miami, FL 33134
Phone: (305) 372-1800
Fax: (305) 372-3508
tr@kttl.com
krh@kttl.com

IF TO DEFENDANTS:

Shannon M. Barrett, Esq.
Mary Patrice Brown, Esq.
Stephen D. Brody, Esq.
Theresa S. Gee, Esq.
O'Melveny & Myers
1625 Eye Street, N.W.
Washington, D.C. 20006
Phone: (202) 383-5300
Fax: (202) 383-5414
sbarrett@omm.com
mpbrown@omm.com
sbrody@omm.com
tgee@omm.com

and

Richard C. Carroll, Esq.
Potter Stewart, Jr. Law Office P.C.
The Merchants Bank Building
205 Main Street, Suite 8
Brattleboro, VT 05301
Phone : (802) 257-7244
rcarroll@potterstewartlaw.com

Any Settling Party may change the address at which it is to receive notice by notice delivered to the other Settling Parties in the manner described above.

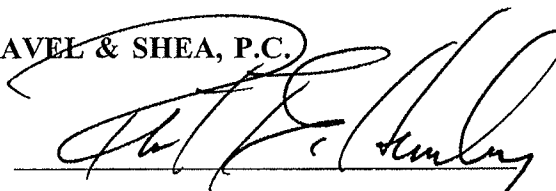
95. Agreement Execution Date. The date on which the final signature is affixed below shall be the Agreement Execution Date.

IN WITNESS WHEREOF, the Settling Parties have executed this Settlement Agreement on the date set forth below.

DATED: January 31, 2014

GRAVEL & SHEA, P.C.

By: _____

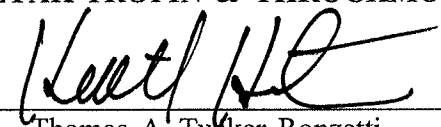


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rhemley@gravelshea.com
nwilliams@gravelshea.com

DATED: January 31, 2014

KOZYAK TROPIN & THROCKMORTON, P.A.

By: _____

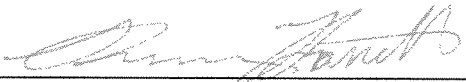


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Phone: (305) 372-1800
Fax: (305) 372-3508
tr@kttlaw.com
krh@kttlaw.com

*Class Counsel and Counsel for
Plaintiffs and Class Representatives*

DATED: January 31, 2014

O'MELVENY & MYERS LLP

By: 

Shannon M. Barrett
Mary Patrice Brown
Stephen D. Brody
Theresa S. Gee
1625 Eye Street, N.W.
Washington, D.C. 20006
Phone: (202) 383-5300
Fax: (202) 383-5414
sbarrett@omm.com
mpbrown@omm.com
sbrody@omm.com
tgee@omm.com

DATED: January ____, 2014

POTTER STEWART, JR. LAW OFFICE P.C.

By: _____

Richard C. Carroll
The Merchants Bank Building
205 Main Street, Suite 8
Brattleboro, VT 05301
Phone: (802) 257-7244
rcarroll@potterstewartlaw.com

***Counsel for Defendants Teachers
Insurance and Annuity Association of
America - College Retirement Equities
Fund, Teachers Insurance and Annuity
Association of America, College
Retirement Equities Fund, TIAA-CREF
Investment Management, LLC, Teachers
Advisors, Inc., and TIAA-CREF Individual
and Institutional Services, LLC***

DATED: January ____, 2014


O'MELVENY & MYERS LLP

By: _____

Shannon M. Barrett
Mary Patrice Brown
Stephen D. Brody
Theresa S. Gee
1625 Eye Street, N.W.
Washington, D.C. 20006
Phone: (202) 383-5300
Fax: (202) 383-5414
sbarrett@omm.com
mpbrown@omm.com
sbrody@omm.com
tgee@omm.com

DATED: January 31, 2014

POTTER STEWART, JR. LAW OFFICE P.C.

By:  _____

Richard C. Carroll
The Merchants Bank Building
205 Main Street, Suite 8
Brattleboro, VT 05301
Phone: (802) 257-7244
rcarroll@potterstewartlaw.com

*Counsel for Defendants Teachers
Insurance and Annuity Association of
America - College Retirement Equities
Fund, Teachers Insurance and Annuity
Association of America, College
Retirement Equities Fund, TIAA-CREF
Investment Management, LLC, Teachers
Advisors, Inc., and TIAA-CREF Individual
and Institutional Services, LLC*

Class Action Settlement Agreement

Exhibit A

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

CHRISTINE BAUER-RAMAZANI and
CAROLYN B. DUFFY, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

TEACHERS INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA - COLLEGE
RETIREMENT AND EQUITIES FUND
(TIAA-CREF), COLLEGE RETIREMENT
AND EQUITIES FUND (CREF), TEACHERS
INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA (TIAA),
TIAA-CREF INVESTMENT
MANAGEMENT, LLC (TCIM), TEACHERS
ADVISORS, INC. (TAI), AND TIAA-CREF
INDIVIDUAL AND INSTITUTIONAL
SERVICES, LLC,

Defendants.

Docket No. 1:09-cv-190

**NOTICE OF FILING OF PROPOSED SETTLEMENT
OF CLASS ACTION PURSUANT TO 28 U.S.C. § 1715**

TO THE APPROPRIATE FEDERAL AND STATE OFFICIALS:

Pursuant to 28 U.S.C. § 1715, defendants Teachers Insurance and Annuity Association of America - College Retirement Equities Fund,¹ Teachers Insurance and Annuity Association of America, College Retirement Equities Fund, TIAA-CREF Investment Management, LLC, Teachers Advisors, Inc., and TIAA-CREF Individual and Institutional Services, LLC (collectively, “Defendants”) named in the above captioned litigation, which asserts claims for alleged violations of the Employee Retirement Income Security Act of 1974, as amended, hereby

¹ Plaintiffs purport to name Teachers Insurance and Annuity Association of America - College Retirement Equities Fund as a defendant, but it is not a distinct legal entity, and the acronym TIAA-CREF is a trade name under which various TIAA- and CREF-affiliated entities do business.

submit the following Notice of Filing of Proposed Settlement of Class Action Pursuant to 28 U.S.C. § 1715.

Pursuant to 28 U.S.C. § 1715(b), Defendants state the following:

(a) A copy of Plaintiffs' Motion for Order Preliminarily Approving Settlement and Setting Fairness Hearing Date (and related documents) and the Proposed Order Preliminarily Approving Settlement, Approving Notice Plan, and Setting Fairness Hearing Date (with attachments) is attached hereto in electronic format.

(b) A copy of the Consolidated Fourth Amended Complaint and Defendants' Answer is attached in electronic format. A copy of Plaintiffs' original Complaint, First Amended Complaint, Consolidated Second Amended Complaint, Third Amended Complaint, and Consolidated Fourth Amended Complaint and the Defendants' Answers can be found in electronic format at www.pacer.gov in the above captioned litigation as ECF Nos. 1; 23; 63; 66; 104; 107; 148; 157; 205; 211.

(c) The Court has not yet scheduled a final approval hearing in this matter.

(d) The proposed notice to class members is attached to the Proposed Order Preliminarily Approving Settlement, attached hereto in electronic format.

(e) The Class Action Settlement Agreement is attached in electronic format.

(f) There are no other settlements or other agreements contemporaneously made between Class Counsel and Counsel for Defendants other than the Class Action Settlement Agreement and related documents attached hereto in electronic format. There currently is no final judgment or notice of dismissal.

(g) A listing of the percentage by state of former and current customers of TIAA-CREF who will receive notice of the Settlement pursuant to 28 U.S.C. § 1715(b)(7)(A), is not available

at this time. Defendants presently are compiling a list of those former and current participants who will receive notice in order to determine percentages by state. When those percentages are available Defendants will supply them in a supplemental CAFA notice.

Dated: _____, 2014

O'MELVENY & MYERS LLP

By: _____
Shannon M. Barrett (pro hac vice)
Theresa S. Gee (pro hac vice)
1625 Eye Street, N.W.
Washington, D.C. 20006
Phone: (202) 383-5300
Fax: (202) 383-5414
E-mail: sbarrett@omm.com

By: _____
Richard C. Carroll
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Brattleboro, VT 05301
Phone: (802) 257-7244
E-mail: rcarroll@potterstewartlaw.com

Counsel for Defendants

Class Action Settlement Agreement

Exhibit B

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

CHRISTINE BAUER-RAMAZANI and
CAROLYN B. DUFFY, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

TEACHERS INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA - COLLEGE
RETIREMENT AND EQUITIES FUND
(TIAA-CREF), COLLEGE RETIREMENT
AND EQUITIES FUND (CREF), TEACHERS
INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA (TIAA),
TIAA-CREF INVESTMENT
MANAGEMENT, LLC (TCIM), TEACHERS
ADVISORS, INC. (TAI), AND TIAA-CREF
INDIVIDUAL AND INSTITUTIONAL
SERVICES, LLC,

Defendants.

Docket No. 1:09-cv-190

**ORDER GRANTING PRELIMINARY APPROVAL
OF PROPOSED CLASS ACTION SETTLEMENT**

This action involves claims for alleged violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 *et seq.* (“ERISA”). Plaintiffs claim that Defendants violated their fiduciary duties under ERISA by transferring or distributing to Class Members the value of their CREF or TIAA variable annuity investments as of the Effective Date rather than the value the investments had on the Processing Date. Defendants deny that they breached any fiduciary duties or otherwise did anything wrong, and contend, among other things, that they credited participants with the full value of their investments as calculated in accordance with the applicable prospectuses and federal law. The parties have reached agreement on a

proposed settlement. The terms of the Settlement are set out in a Settlement Agreement executed by Defense and Class Counsel (“Settlement Agreement”) on January 31, 2014.¹

The Court preliminarily considered the proposed settlement to determine, among other things, whether it is sufficient to warrant the issuance of notice to members of the Class. Upon reviewing the Settlement Agreement, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

1. **Class Certification.** The Court previously certified a Class in this action. (*See* D.E. 306 & 327.) The Class was defined as:

All persons, including all ‘persons’ as defined by 29 U.S.C. § 1002(9), who at any time during the Class Period requested a transfer or distribution of funds held in a CREF or TIAA variable annuity account covered by ERISA whose funds were not transferred or distributed within seven days of the date the account was valued and denied the investment gains.

(D.E. 327.) This class consists solely of current or former participants or their beneficiaries who, during the Class Period, requested a transfer or distribution of funds held in a CREF or TIAA variable annuity account covered by ERISA, whose funds were not transferred or distributed within seven days and who did not receive TFE gains associated with those transfers or distributions. The Class Period was defined as the period from August 17, 2003 through May 9, 2013. (D.E. 306.) Notice of the pendency of a class action was provided to the Class through mail, email (where available) and publication. (D.E. 386.) The proposed settlement would resolve the claims of Plaintiffs and the previously certified Class. The Court having previously found that the Class met all the requirements of Federal Rule of Civil Procedure 23(a), hereby certifies the Class for settlement purposes based on the parties’ mutual agreement noted herein.

2. **Preliminary Findings Regarding Proposed Settlement.** The Court preliminarily finds that: (a) the proposed settlement resulted from extensive arm’s-length negotiations, including mediation; (b) the Settlement Agreement was executed only after Class

¹ Capitalized terms not otherwise defined in this Order shall have the same meaning as ascribed to them in the Settlement Agreement.

Counsel had conducted appropriate investigation and discovery regarding the strengths and weaknesses of Plaintiffs' claims and Defendants' defenses to Plaintiffs' claims; and (c) the proposed settlement is sufficiently fair, reasonable, and adequate to warrant sending notice of the proposed settlement to the Class. Having considered the essential terms of the proposed settlement under the recommended standards for preliminary approval of settlements as set forth in relevant jurisprudence, the Court finds that those whose claims would be settled, compromised, dismissed, and/or released pursuant to the proposed settlement should be given notice and an opportunity to be heard regarding final approval of the proposed settlement.

3. **Fairness Hearing.** A hearing is scheduled for _____, 2014 at _____.m (the "Fairness Hearing") to determine among other things:

- a. Whether the proposed settlement warrants final approval as fair, reasonable and adequate;
- b. Whether the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement;
- c. Whether Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement;
- d. Whether the proposed allocation and distribution of the Settlement Fund should be approved; and
- e. Whether any application for attorneys' fees and expenses and service awards to Plaintiffs are fair and reasonable and should be approved.

4. **Settlement Administrator.** The Court hereby approves the selection of Epiq Systems the Settlement Administrator.

5. **Form of Class Notice.** The parties have presented to the Court a proposed notice to be sent via first-class mail, postage prepaid, and email, and published on the internet ("Notice"; Exhibit 1 to this Order). Class Counsel will post the notice and the Settlement Agreement on the previously established website (www.TIAA-CREF-lawsuit.com). The Court hereby approves, as to form and content, the proposed notices. The Court finds that such forms

fairly and adequately: (a) describes the terms and effect of the proposed settlement and the plan of allocation and distribution; (b) notifies the Class that Class Counsel will seek approval of attorneys' fees and expenses to be paid by Defendants separate and apart from the settlement fund, and for service awards of \$7,500 for each of the Class Representatives, Christine Bauer-Ramazani and Carolyn Duffy, for their service in such capacity; (c) gives notice to the Class of the time and place of the Fairness Hearing; and (d) describes how the recipients of the Notice and Summary Notice may exclude themselves from or object to the proposed settlement.

6. **Manner of Class Notice.** The parties have proposed the following manner of communicating the notice to the Class, and the Court finds that such proposed manner is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to notice and meets all applicable requirements of the Federal Rules of Civil Procedure and any other applicable law. Accordingly, the Court directs that:

- a. Within twenty (20) days after entry of this Order, Defendants shall identify and provide to the Settlement Administrator, as are reasonably available to Defendants through Defendants' current records, the names of Class Members, their last known addresses to which the Class Settlement Notice shall be sent, their email addresses (if known), and their social security numbers. Such provision to the Settlement Administrator shall be in electronic format (e.g., in spreadsheet or database format). Such information shall be used exclusively and solely for purposes of providing notice and administering and distributing the Settlement Amount and shall be subject to the terms of the Protective Order entered in this action.
- b. Within forty (40) days after entry of this Order, the Settlement Administrator will cause the Notice, with such non-substantive modifications thereto as may be agreed upon by the parties, to be: (i) mailed, by first-class mail, postage prepaid, to the last known address of each Class Member who can be identified by reasonable effort; and (ii) emailed to the last known email address of each Class

Member for whom Defendants have an email address that can be located by reasonable effort.

- c. Within thirty (30) days after entry of this Order, Class Counsel shall post the Notice with such non-substantive modifications thereto as may be agreed upon by the Parties, the Settlement Agreement, and this Order on the website, www.TIAA-CREF-lawsuit.com.
- d. On or before twenty-one (21) days before the Fairness Hearing, Class Counsel shall file with the Court proof of timely compliance with the foregoing mailing and publication requirements.

7. Notice and Administration Expenses. The expenses of printing, mailing, and publishing all notices required hereby and expenses of otherwise administering the proposed settlement shall be paid by Defendants.

8. Exclusion from Settlement. Class Members may exclude themselves from the proposed settlement by sending a written request for exclusion, postmarked no later than forty-five (45) days before the Fairness Hearing to the Settlement Administrator at the address set forth in the Notice. Any request for exclusion must include the following information, without which it is invalid: (a) the complete legal name of each person who wishes to be excluded; (b) each person's mailing address; (c) a statement that the person wishes to be excluded from the settlement; and (d) the person's signature or, if the person is unable to sign, his/her legal representative or guardian's name and signature. The request for exclusion must be sufficiently legible such that the Settlement Administrator can identify the Class Member seeking to be excluded. Class Counsel shall facilitate the filing of a list of Class Members who have submitted requests for exclusion no later than twenty-one (21) days before the Fairness Hearing.

9. **Objections to Settlement.** The Court will consider written comments or objections to the proposed settlement, to the proposed award of attorneys' fees and expenses, or to the request for service awards for the Plaintiffs only if such written comments or objections are filed with the Clerk of Court on or before forty-five (45) days before the Fairness Hearing, comply with the requirements of Paragraph 9.b below, and are served on the Parties at the following addresses:

For Filing with the Court:

Re: Case No. 1:09-cv-190

Clerk of Clerk

U.S. District Court for the District of Vermont

United States Courthouse

P.O. Box 998

Brattleboro, VT 05302-0998

To Class Counsel:

Tucker Ronzetti

Kozyak, Tropin & Throckmorton, P.A.

2525 Ponce de Leon Blvd., 9th Floor

Coral Gables, Florida 33134

To Defendants' Counsel:

Shannon Barrett

O'Melveny & Myers, LLP

1625 Eye Street NW

Washington, DC 20006

- b. The Court will only consider written comments and objections to the Settlement that are signed by the Settlement Class member and are timely filed with the Court and include all of the following: (i) the case name and number of this lawsuit, which is *Bauer-Ramazani et al. v. TIAA-CREF et al.*, Case No. 1:09-cv-190; (ii) the objecting Class Member's name, address, telephone number; (iii) a sentence confirming that he or she is a Class Member; and (iv) the specific objection(s) that he or she is making and an explanation for the objection(s). Any Class Member or other person who does not timely file and serve a written

objection complying with the terms of this paragraph shall be deemed to have waived, and shall be foreclosed from raising, any objection to the proposed settlement. Defendants' counsel and Class Counsel shall promptly furnish each other with copies of any and all objections that come into their possession.

10. **Motion for Final Approval.** Plaintiffs shall file and serve their motion for final approval of the proposed settlement and papers in support thereof and Class Counsel's applications for attorneys' fees, expenses, and service awards to the Class Representatives no later than fourteen (14) days before the Fairness Hearing.

11. **Termination of Settlement.** This Order shall become null and void, *ab initio*, and shall be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions as of the day immediately before the parties executed the Settlement Agreement, if the settlement is terminated in accordance with the terms of the Settlement Agreement. The parties shall promptly provide notice to the Court if the Settlement Agreement is terminated.

12. **Use of Order.** This Order is not admissible as evidence for any purpose against Defendants in any pending or future litigation involving any of the parties. This Order shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability and Defendants specifically deny any such fault, breach, liability, or wrongdoing. This Order shall not be construed or used as an admission, concession, or declaration by or against Plaintiffs or the Class that their claims lack merit or that the relief requested in the action is inappropriate, improper, or unavailable. This Order shall not be construed or used as an admission, concession, declaration, or waiver by any party of any arguments, defenses, or claims he, she, or it may have, including, but not limited to, any objections by Defendants to class certification, in the event that the Settlement Agreement is terminated.

13. **Jurisdiction.** The Court hereby retains jurisdiction for purposes of implementing the proposed settlement, and reserves the power to enter additional orders to effectuate the fair

and orderly administration and consummation of the settlement as may from time to time be appropriate, and to resolve any and all disputes arising thereunder.

14. **Continuance of Fairness Hearing.** The Court reserves the right to continue the Fairness Hearing without further mailed, emailed, or published notice to the Class.

15. **Schedule.** Accordingly, the Court enters the following schedule for class notice, requests for exclusion, objections, briefing, and the Fairness Hearing:

<u>Event</u>	<u>Deadline</u>
Defendants' Provision of Class Member Information to Settlement Administrator	20 days after entry of this Order
Posting of Notice on Website	30 days after entry of this Order
Initial Mailing and Emailing of Notice	40 days after entry of this Order
Postmark Requests for Exclusion	45 days prior to the Fairness Hearing
File Objections	45 days prior to the Fairness Hearing
File Proof of Mailing of Notice and List of Requests for Exclusion	21 days prior to the Fairness Hearing
File Motion for Final Approval and Application for Attorneys' Fees and Expenses and Service Awards for Named Plaintiffs	14 days prior to the Fairness Hearing
Fairness Hearing	_____, 2014

SO ORDERED this the ____ day of _____, 2014.

J. GARVAN MURTHA
 UNITED STATES DISTRICT JUDGE

Exhibit 1

Notice of Proposed Class Action Settlement and Fairness Hearing

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

Bauer-Ramazani et al. v. Teacher Insurance and Annuity Association of America – College Retirement and Equities Fund (TIAA-CREF), College Retirement and Equities Fund (CREF), TIAA-CREF Investment Management, LLC, Teachers Advisors, Inc., TIAA-CREF Individual and Institutional Services, LLC, and Teachers’ Insurance and Annuity Association of America (TIAA)

Case No. 1:09-cv-190

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND FAIRNESS HEARING

TO: All persons who, between August 17, 2003 and May 9, 2013, requested a transfer or distribution of funds invested in a CREF or TIAA variable annuity account covered by ERISA whose funds were not transferred or distributed within seven days of the date the account was valued and who were not paid the investment gains, if any, during the delay period.

*A federal court directed this Notice to be sent to you.
This Notice affects your rights – please read it carefully.
You are not being sued. This is not a solicitation from a lawyer.*

You are receiving this Notice because records indicate that you are a Class Member in this class action lawsuit. This Notice advises you about a proposed class action settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Exclude Yourself by _____, 2014	Get out of the lawsuit and the settlement. Receive no payment from the settlement fund. Keep any rights you have to sue Defendants.
Object by _____, 2014	Write to the Court about why you do not like the proposed settlement.
Attend a Hearing on _____, 2014	Ask to speak to the Court about the fairness of the proposed settlement.
Do Nothing	Receive a payment from the settlement fund if the Court approves the settlement. Give up your rights to sue Defendants.

A. What Is This Notice About?

This Notice summarizes a proposed settlement of a class action lawsuit and describes your options before the Court decides whether to approve the settlement. The proposed settlement resolves a lawsuit over whether Defendants should have paid their customers investment gains allegedly generated by customer’s funds between the Effective Date of a customer’s transfer or withdrawal request and the date the request was processed. If the Court approves the settlement and after all appeals, if any, are resolved, an administrator appointed by the Court will make the payments permitted by the settlement (described below in section E). You should read this entire Notice carefully because your legal rights are affected whether you act or not.

You may have received a previous notice concerning the certification of the lawsuit as a class action and your ability to opt out or exclude yourself from the litigation. This Notice is different from the previous notice – it provides new information concerning the proposed settlement.

B. What Is a Class Action Lawsuit?

A class action is a lawsuit in which one or more individuals sue a company, person, or other entity on behalf of all other people who are in a similar position. Collectively, these people in a similar position as referred to as a “class” or “class members.” In a class action, a court resolves certain legal issues, claims, and defenses for all class members in one lawsuit except for those individuals who ask to be excluded from the class (see below for more information about excluding yourself from the Class).

C. What Is This Lawsuit About?

This class action lawsuit was filed on August 17, 2009, and is being brought on behalf of individuals who, between August 17, 2003 and May 9, 2013, requested a transfer or withdrawal of funds invested in a CREF or TIAA variable annuity account covered by ERISA whose funds were not transferred or distributed within seven days of the date the account was valued (the “Effective Date”) and who were not paid the investment gains, if any, during the delay period.

Christine Bauer-Ramazani and Carolyn B. Duffy (collectively referred to as “Plaintiffs” or “Class Representatives”) are the named plaintiffs and the representatives on behalf of all members of the Class in the lawsuit. The defendants in the lawsuit are Teachers Insurance and Annuity Association of America – College Retirement Equities Fund, College Retirement Equities Fund, Teachers’ Insurance and Annuity Association of America, TIAA-CREF Investment Management, LLC, Teachers Advisors, Inc., and TIAA-CREF Individual and Institutional Services LLC (collectively referred to as “Defendants”).

Plaintiffs claim that Defendants did not pay their customers the investment gains generated by the customers’ funds after customers asked that their funds be transferred or returned but before Defendants processed the transfer or distribution. Plaintiffs assert that Defendants’ conduct violates the Employment Retirement Income Security Act, more commonly known as ERISA. The lawsuit seeks the return of the investment gains allegedly retained by Defendants. Defendants deny the claims, contending, among other things, that they properly valued customers’ investments in accordance with federal law as well as the prospectuses governing the variable annuity accounts, which required that the accounts be valued on a particular Effective Date. Defendants also assert that this practice benefited customers by allowing them to “lock in” the price at which their investments were redeemed, without exposure to further market risk, and that to the extent that the value of the variable annuity accounts increased between the Effective Date and the date a customer’s transaction was processed, that increase did not benefit Defendants but instead benefited customers by offsetting costs otherwise chargeable to investors through the variable annuity accounts.

The Court previously certified this case as a class action. Following class certification, a notice was mailed, emailed, and published to inform Class Members about the class action. After extensive written discovery and numerous depositions, Defendants moved for summary judgment. On November 27, 2013, the Court denied in part and granted in part Defendants’ motion for summary judgment. After summary judgment, Plaintiffs have one remaining claim against Defendants. That claim was set for trial starting on January 21, 2014. The Court has not ruled on the merits of the remaining claim or on the positions taken by Defendants concerning that claim. Instead, Plaintiffs and Defendants reached an agreement to resolve this litigation through a settlement. This settlement agreement is subject to Court approval.

D. Who Is a Class Member?

The Court has defined the Class as: “All persons, including all ‘persons’ as defined by 29 U.S.C. § 1002(9), who at any time during the Class Period requested a transfer or distribution of funds held in a CREF or TIAA

variable annuity account covered by ERISA whose funds were not transferred or distributed within seven days of the date the account was valued and were denied the investment gains.” Class Members are individuals who meet this definition.

E. What Is the Proposed Settlement?

You have a right to know about the proposed settlement of this lawsuit and your options before the Court makes a final decision about whether to approve the settlement. The Court preliminarily approved the proposed settlement on ____, 2014. If the Court grants final approval of the settlement, the Court will not conduct a trial and Class Members will receive certain compensation and other relief. A complete copy of the Settlement Agreement is available at www.TIAA-CREF-lawsuit.com.

Under the terms of the proposed settlement, Defendants agree to create a \$19.5 million settlement fund. The settlement fund will be used as follows: first, each of the two Class Representatives will be paid up to \$7,500 for their service in pursuing this lawsuit; and, second, the remainder of the settlement fund will be paid, pro rata, to Settlement Class Members based on the investment gains associated with each Settlement Class Member’s investments in CREF and/or TIAA variable annuity accounts during the period from the Effective Date of the Class Member’s withdrawal or transfer request and date on which Defendants processed the withdrawal or transfer (according to records maintained by Defendants). Payments will be made via check sent through the United States mail. Defendants also agreed to make certain disclosures about their treatment of the difference in the value of a variable annuity account between the Effective Date of a customer’s transfer or withdrawal request and the date on which Defendants process the request. In return, Settlement Class Members will release all claims against Defendants that were or could have been raised in this lawsuit.

This settlement reflects an evaluation of the remaining claim and potential recovery, considering the facts as known to counsel after discovery and careful investigation, the likelihood of prevailing at trial, the likelihood that this lawsuit, if not settled now, would take a longer amount of time to litigate to finality, especially considering the likelihood of any appeals.

In addition to and separate from the \$19.5 million settlement fund, Defendants have agreed to pay Class Counsel the amount of \$3.3 million for attorneys’ fees and expenses incurred in this lawsuit. This amount is also subject to final approval from the Court.

A hearing for the Court to consider the fairness of the proposed settlement is scheduled for _____, 2014, at _____.m. at the United States Courthouse, 204 Main Street, Brattleboro, Vermont 05301. If the Court grants final approval to the proposed settlement, the cash payments will be distributed _____. If the Court does not approve the proposed settlement or if the settlement is overturned on appeal, no payments will be made to the named plaintiffs, Class Members or Class Counsel.

F. Who Represents Me? Will I Have to Pay the Lawyers?

As a Class Member, your interests will be represented by counsel for Plaintiffs and the Class:

Gravel & Shea P.C.
76 St Paul Street, 7th Floor
Burlington, Vermont 05401

Kozyak, Tropin & Throckmorton, P.A.
2525 Ponce de Leon Blvd., 9th Floor
Coral Gables, Florida 33134

You do not need to hire your own lawyer because Class Counsel are working on your behalf. If you would like your own lawyer, you have the right to retain one at your own expense. You are not responsible for any costs or attorneys’ fees incurred in this lawsuit (unless you hire your own separate lawyer). If the Court approves the proposed settlement, Defendants will pay Class Counsel \$3.3 million for their attorneys’ fees and expenses. This amount will not come out of the settlement fund.

The two Class Representatives will also ask the Court for a service award of \$7,500 each for their costs, time, and effort acting as a Class Representative and for their willingness to bring this lawsuit and act on behalf of other consumers. The service awards, if approved, will be paid out of the settlement fund.

G. Exclusion from the Proposed Settlement.

You may exclude yourself from the proposed settlement (also known as “opting out”). If you do nothing, then you will be included in the proposed settlement. If you want to exclude yourself, you must send a request, *postmarked no later than* _____, 2014, to:

TIAA-CREF Settlement
c/o Epiq Systems
[insert address here]

Any request for exclusion *must* include the following information: (1) the complete legal name of each person who wishes to be excluded; (2) each person’s mailing address; (3) a statement that the person wishes to be excluded from the settlement; and (4) the person’s signature or, if the person is unable to sign, his/her legal representative or guardian’s name and signature.

H. Objecting to the Settlement.

If you wish to object to the proposed settlement, you must file, in writing, a statement describing your objections, together with any supporting papers or briefs, and a statement of whether you or your attorney intend to appear at the Fairness Hearing (see section I below). You must file your written objection with the Court no later than _____, 2014, with the Clerk of Court, United States Courthouse, P.O. Box 998, Brattleboro, VT 05302-0998.

You must also provide, no later than _____, 2014, copies of your written objections and any supporting papers or briefs to *both* Class Counsel and Counsel for Defendants at the following addresses:

Class Counsel

Tucker Ronzetti
Kozyak, Tropin & Throckmorton, P.A.
2525 Ponce de Leon Blvd., 9th Floor
Coral Gables, Florida 33134

Counsel for Defendants

Shannon Barrett
O’Melveny & Myers, LLP
1625 Eye Street, N.W.
Washington, D.C. 20006

The written statement of objections must include: (1) the case name and number of this lawsuit, which is *Bauer-Ramazani et al. v. TIAA-CREF et al.*, Case No. 1:09-cv-190; (2) the objecting Class Member’s name, address, and telephone number; (3) a sentence confirming that he or she is a Class Member; and (4) the specific objection(s) that he or she is making and an explanation for the objection(s). If you fail to comply with the required procedure for making your objections, you will be deemed to have waived any objections.

I. Fairness Hearing.

The Court has scheduled a hearing for _____, 2014, at ____ .m. in the United States District Court for the District of Vermont, United States Courthouse, 204 Main Street, Brattleboro, Vermont 05301, in the Courtroom of the Honorable J. Garvan Murtha. At this hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. You do not have to attend the hearing, but you are welcome to come at your own expense. If you file a valid objection, you are not required to attend the hearing for the Court to consider the objection, but you may come if you want to do so.

After the hearing, the Court will decide whether to grant final approval of the settlement. We do not know how long the Court's decision will take. If the Court grants final approval, the settlement fund will be distributed after the Court's decision is no longer subject to appeal. If the Court does not approve the settlement, then the parties will continue to litigate the case and prepare for trial, and no settlement payments will be made to Class Members.

J. Getting More Information.

This Notice summarizes the proposed settlement. The complete Settlement Agreement, this Notice, previous notices, and certain court documents are available at www.TIAA-CREF-lawsuit.com. The pleadings and other court records in this litigation may be examined and copied during regular office hours at the Clerk of Court, United States District Court for the District of Vermont, United States Courthouse, 204 Main Street, Brattleboro, Vermont 05301.

**PLEASE DO NOT CALL OR WRITE THE
COURT FOR INFORMATION OR ADVICE.**

This Notice is given with the approval and at the direction of the Court.

DATED: _____, 2014

J. Garvan Murtha
United States District Court Judge

Class Action Settlement Agreement

Exhibit C

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

CHRISTINE BAUER-RAMAZANI and
CAROLYN B. DUFFY, on behalf of themselves
and all others similarly situated,

Plaintiffs,

Docket No. 1:09-cv-190

v.

TEACHERS INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA - COLLEGE
RETIREMENT AND EQUITIES FUND
(TIAA-CREF), COLLEGE RETIREMENT
AND EQUITIES FUND (CREF), TEACHERS
INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA (TIAA),
TIAA-CREF INVESTMENT
MANAGEMENT, LLC (TCIM), TEACHERS
ADVISORS, INC. (TAI), AND TIAA-CREF
INDIVIDUAL AND INSTITUTIONAL
SERVICES, LLC,

Defendants.

**ORDER GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND FINAL JUDGMENT**

This action involves claims for alleged violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 *et seq.* (“ERISA”). Plaintiffs claim that Defendants violated their fiduciary duties under ERISA by transferring or distributing to Class Members the value of their CREF or TIAA variable annuity investments as of the Effective Date rather than the value the investments allegedly had on the Processing Date. Defendants deny that they breached any fiduciary duties or otherwise did anything wrong, and contend, among other things, that they credited participants with the full value of their investments as calculated in accordance with the applicable prospectuses and federal law. The parties have reached

agreement on a settlement. The terms of the Settlement are set out in a Settlement Agreement executed by Defense and Class Counsel (“Settlement Agreement”) on January __, 2014.¹

The Court has considered the Settlement and conducted a hearing to determine whether the Settlement is fair, reasonable, and adequate under the circumstances. Upon reviewing and considering the pleadings and documents filed in this action, Plaintiffs’ Motion for Final Approval, the evidence submitted by the parties, the arguments of counsel, objections that were timely filed with the Court, and the Settlement Agreement, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court has jurisdiction over the subject matter of this action and all parties to the action, including all Class Members.

2. The Court previously certified a Class in this action and certified the same Class for settlement purposes. The Class is defined as:

All persons, including all ‘persons’ as defined by 29 U.S.C. § 1002(9), who at any time during the Class Period requested a transfer or distribution of funds held in a CREF or TIAA variable annuity account covered by ERISA whose funds were not transferred or distributed within seven days of the date the account was valued and denied the investment gains.

This class consists solely of current or former participants or their beneficiaries who, during the Class Period, requested a transfer or distribution of funds held in a CREF or TIAA variable annuity account covered by ERISA, whose funds were not transferred or distributed within seven days and who did not receive TFE gains associated with those transfers or distributions.

3. Pursuant to Federal Rule of Civil Procedure 23(c)(3), all individuals within the Class, as defined in paragraph 2 above, and who have not excluded themselves by timely

¹ Capitalized terms not otherwise defined in this Order shall have the same meaning as ascribed to them in the Settlement Agreement.

submitting a valid request for exclusion, as discussed in paragraph 5 below, are “Settlement Class Members.”

4. Notice of the Settlement was mailed, by first-class mail, postage prepaid, emailed (where email addresses were reasonably available), and published on an internet website. This notice constituted the best notice practicable under the circumstances and constituted valid, due, and sufficient notice to the Class of their rights and obligations, in compliance with Federal Rule of Civil Procedure 23 and due process.

5. The list of persons excluded from the Settlement Class because they timely submitted valid requests for exclusion are attached hereto as Exhibit A. Those Class Members are hereby excluded from the Settlement, shall not receive any distribution of any portion of the Settlement Amount, and are not bound by the Settlement Agreement or this Order Granting Final Approval of Class Action Settlement and Final Judgment.

6. The Court conducted a Fairness Hearing on _____, 2014, to consider whether the Settlement warrants final approval as fair, reasonable, and adequate.

7. The Court finds that: (a) the Settlement resulted from extensive arm’s-length negotiations, including multiple mediation sessions; (b) the Settlement Agreement was executed only after Class Counsel had conducted appropriate investigation and discovery regarding the strengths and weaknesses of Plaintiffs’ claims and Defendants’ defenses to Plaintiffs’ claims; and (c) the Settlement is fair, reasonable, and adequate.

8. The Court hereby approves the Settlement Agreement and orders that the Settlement Agreement shall be consummated and implemented in accordance with its terms and conditions.

9. The expenses of administering the Settlement and distributing the Settlement Amount shall be paid by Defendants.

10. Pursuant to Federal Rule of Civil Procedure 23(c)(3), all Settlement Class Members are bound by this Order Granting Final Approval of Class Action Settlement and Final Judgment, and by the terms of the Settlement Agreement.

11. The Releasors, including Plaintiffs and all Settlement Class Members, are hereby: (a) deemed to have fully, finally, and forever released, relinquished, and discharged the Released Claims against the Released Settling Parties, as set forth in paragraphs 36 through 40 of the Settlement Agreement; and (b) forever barred and permanently enjoined from asserting, instituting, or commencing, either directly or indirectly, any of the Released Claims against any of the Released Settling Parties.

12. Consistent with the provisions of the Settlement Agreement governing the timing for performance, the parties are directed to perform the Settlement Agreement according to its terms and consistent with all additional terms set forth in the Order Approving Plaintiffs' Request for Award of Attorneys' Fees and Costs and Class Representatives' Service Awards, this Order Granting Final Approval of Class Action Settlement and Final Judgment, or any other subsequent order of the Court.

13. Without affecting the finality of this Order Granting Final Approval of Class Action Settlement and Final Judgment in any way, the Court hereby retains continuing jurisdiction over the implementation, administration, and enforcement of this Final Judgment, the Settlement Agreement, and all matters ancillary thereto.

14. All requirements of the Class Action Fairness Act, 29 U.S.C. § 1711 et seq., have been met.

15. Each and every Objection to the settlement is overruled with prejudice.

16. This Action and all claims that were or could have been raised therein whether asserted by Plaintiffs on their own behalf or on behalf of the Settlement Class are hereby dismissed with prejudice and without costs to any of the Settling Parties, other than as provided for in the Settlement Agreement.

17. Class Counsel, Plaintiffs, or Settlement Class Members may hereafter discover facts in addition to or different from those they know or believe to be true with respect to the Released Claims. Such facts, if known by them, might have affected their decision to settle with Defendants or their decision to release, relinquish, waive, and discharge the Released Claims, or might have affected the decision of a Settlement Class Member not to object to the Settlement. Notwithstanding the foregoing, each Plaintiff and Settlement Class Member has hereby fully, finally, and forever settled, released, relinquished, and discharged all Released Settling Parties of the Released Claims.

18. Each Plaintiff and Settlement Class Member hereby waive any and all rights or benefits respectively conferred upon them by the provisions of Section 1542 of the California Civil Code and all similar provisions of the statutory or common laws of any other State, Territory, or other jurisdiction. Section 1542 of the California Civil Code provides: “A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

19. Each Plaintiff and each Settlement Class Member shall hold harmless the Released Parties for any taxes due on funds once deposited in the Settlement Fund, or after payment of Attorneys’ Fees and Costs or the Class Representative Service Awards, and any associated penalties and interest as well as related attorneys’ fees and expenses.

20. This Order and Judgment is not admissible as evidence for any purpose against Defendants in any pending or future litigation involving any of the parties. This Order and Judgment shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability and Defendants specifically deny any such fault, breach, liability or wrongdoing. This Order and Judgment shall not be construed or used as an admission, concession, or declaration by or against Plaintiffs or the Class that their claims lack merit or that the relief requested in the action is inappropriate, improper, or unavailable. This Order and Judgment shall not be construed or used as an admission,

concession, declaration, or waiver by any party of any arguments, defenses, or claims he, she, or it may have, including, but not limited to, any objections by Defendants to class certification, in the event that the Settlement Agreement is terminated.

21. The Settlement Administrator shall have final authority to determine the share of the Settlement Amount to be allocated to each Settlement Class Member.

22. With respect to payments or distributions to Settlement Class Members, all questions not resolved by the Settlement Agreement shall be resolved by the Settlement Administrator in his, her, or its sole and exclusive discretion.

23. With respect to any matters that arise concerning distributions to Settlement Class Members (after allocation decisions have been made by the Settlement Administrator in his, her, or its sole discretion), all questions not resolved by the Settlement Agreement shall be resolved by the Settlement Administrator after consultation with the parties and their counsel.

24. At a reasonable date following the issuance of all settlement payments to Settlement Class Members, the Settlement Administrator shall prepare and provide to Class Counsel and Defense Counsel a list of each person who was issued a settlement payment and the amount of such payment.

25. Without further order of the Court, the parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

26. Upon entry of this Order, all Settlement Class Members shall be bound by the Settlement Agreement and by this Final Order.

27. The Court, finding that no reason exists for delay, hereby directs the Clerk to enter this Final Judgment forthwith.

IT SO ORDERED this the ____ day of _____, 2014.

J. GARVAN MURTHA
UNITED STATES DISTRICT JUDGE

Class Action Settlement Agreement

Exhibit D

SETTLEMENT AGREEMENT

EXHIBIT D

Pursuant to § VII, ¶ 64, of the Settlement Agreement, the following is a description of Defendants' Effective Date valuation and Processing Date practices as set forth in the May 1, 2013 College Retirement Equities Fund Prospectus:

The price you pay for accumulation units, and the price you receive for accumulation units when you redeem accumulation units, is the value of the accumulation units calculated for the effective date of your transaction. This date is the Business Day on which we receive your purchase, redemption or transfer request in good order (as defined above).^[1] Therefore, if we receive your purchase, redemption or transfer request in good order before the NYSE closes, that Business Day will be considered the effective date of your order. If we receive your request in good order after the NYSE closes, the next Business Day will be considered the effective date of your order.

Payments and orders to redeem accumulation units may be processed after the effective date. "Processed" means when amounts are credited or debited to you in the Account. In the event there are market fluctuations between the effective date and the processing date and the price of accumulation units on the processing date is higher or lower than your price on the effective date, that difference will be paid or retained by TIAA, the Accounts' administrator or by Services, the Accounts' distributor. This amount, which may be positive or negative, together with similar amounts paid or retained by TIAA or Services in connection with transactions involving other investment products offered under pension plans administered by TIAA or its affiliates and the amount of interest, if any, paid by TIAA or Services to participants in CREF and other pension products in connection with certain delayed payments, is apportioned to CREF pursuant to two agreements: (i) an administrative services agreement with TIAA and (ii) a principal underwriting and distribution services agreement with Services. Under these two agreements, CREF reimburses TIAA and Services for certain administrative and distribution services, respectively, which each entity provides to the Accounts.

2013 College Retirement Equities Fund Prospectus at 67-68.

¹ "“Good Order” means actual receipt of the transaction request along with all information and supporting legal documentation necessary to effect the transaction. This information and documentation generally includes your complete application and any other information or supporting documentation we may require.” 2013 College Retirement Equities Fund Prospectus at 63.