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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE DYNEX CAPITAL, INC.
SECURITIES LITIGATION

Civ. No.: 05-1897 (HB)

~~APPROVED~~ ORDER AND FINAL JUDGMENT

WHEREAS, by Order of this Court, entered December 5, 2011 (the “Preliminary Approval Order”), the Court held a hearing on the 13th day of March, 2012, pursuant to Rule 23 of the Federal Rules of Civil Procedure, to determine: (a) whether the terms of the proposed settlement (the “Settlement”) of this certified class action (the “Action”), described in the Parties’ Amended Stipulation of Settlement (the “Stipulation”), are fair, reasonable and adequate, and should be approved by the Court; (b) whether the allocation of the Settlement Fund (“Plan of Allocation”) proposed by Lead Plaintiff and Class Representative Pension Fund Local 445 is fair and reasonable, and should be approved by the Court; (c) whether entry of this Judgment, dismissing the Action on the merits and with prejudice, and releasing the Released Claims, as defined in the Stipulation, should be ordered; (d) whether the application of Lead Counsel for an award of attorneys’ fees and reimbursement of expenses should be approved; and (e) such other matters as the Court might deem appropriate; and

WHEREAS, by Order entered March 7, 2011, the Court certified a class, pursuant to Fed. R. Civ. P. 23(b)(3), of all purchasers of Merit Securities Corporation Collateralized Bond Series 12 and Series 13 Bonds (the “Merit Bonds”) between February 7, 2000 and May 13, 2004 (the “Class Period”), that were alleged to have been damaged thereby (the “Class”), excluding from the Class (1) Defendants Dynex Capital, Inc. (“Dynex”), Merit Securities Corporation, Stephen J. Benedetti, and Thomas H. Potts (collectively, “Defendants”), (2) any officer or director of

Dynex during the Class Period, (3) any corporation, trust or other entity in which any Defendant has a controlling interest, (4) members of the immediate families of Thomas H. Potts and Stephen J. Benedetti, or their successors, heirs, assigns and legal representatives, and (5) any Class Members who excluded themselves by filing a timely request for exclusion in accordance with the requirements set forth in the Notice of Pendency or Notice of Proposed Settlement of Class Action, Motion for Attorneys' Fees and Reimbursement of Expenses and Settlement Fairness Hearing ("Notice"); and

WHEREAS, it appearing that a Notice substantially in the form approved by the Preliminary Approval Order was mailed to all persons and entities reasonably identifiable as Class Members who purchased the Merit Bonds during the Class Period; and

WHEREAS, it appearing that a Summary Notice of Proposed Settlement ("Summary Notice") substantially in the form approved by the Court in the Preliminary Approval Order was published pursuant to the specifications of the Court;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Order and Final Judgment incorporates by reference the definitions set forth in the Stipulation, and any capitalized terms not otherwise defined herein shall have the meanings attributed to them in the Stipulation.

2. The Court has jurisdiction over the subject matter of the Action, Lead Plaintiff, all Class Members, and Defendants.

3. The Court finds that the Notice distributed to the Class provided the best notice practicable under the circumstances. The Notice provided due and adequate notice of these proceedings and the matters set forth herein, including the terms of the Settlement and Plan of Allocation of the Settlement Fund, to all persons and entities entitled to such notice, and the Notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(7) as amended by the Private Securities Litigation Reform Act of 1995, due process, and any other applicable law.

A full opportunity has been offered to the Class Members to object to the proposed Settlement and to participate in the hearing thereon. All Class Members who did not previously and timely elect to exclude themselves by written communication pursuant to the Notice of Pendency and Notice are bound by this Order and Final Judgment.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Settlement is found to be and approved as fair, reasonable and adequate, and in the best interests of the Class. Lead Plaintiff and Defendants are directed to consummate the Settlement in accordance with the terms and conditions of the Stipulation.

5. The Action is dismissed with prejudice and without costs.

6. Upon the Effective Date of the Settlement, Lead Plaintiff and each Member of the Class, on behalf of themselves and each of their respective past or present subsidiaries, affiliates, parents, successors and predecessors, estates, heirs, executors, administrators, and the respective officers, directors, shareholders, agents, legal representatives, spouses and any persons they represent, and whether or not they have submitted a Proof of Claim, shall and shall be deemed to release and forever discharge, and shall forever be enjoined from prosecuting, the Released Claims against any of the Dynex Released Parties.

7. Upon the Effective Date of the Settlement, the Dynex Released Parties, on behalf of themselves and their successors and assigns, shall and shall be deemed to release and forever discharge, and shall forever be enjoined from prosecuting, the Released Claims against Lead Plaintiff, Members of the Class, and Lead Counsel.

8. The Court finds that all Parties to the Action and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

9. Neither this Order and Final Judgment, the Stipulation, nor any of the negotiations, documents or proceedings connected with them shall be:

(a) offered or received against any of the Dynex Released Parties as evidence of or construed as, or deemed to be evidence of any presumption, concession or

admission by any of the Dynex Released Parties with respect to the truth of any fact alleged by Lead Plaintiff or the validity of any claim that was or could have been asserted against any of the Dynex Released Parties in this Action or in any litigation, in this or any other court, administrative agency, arbitration forum or other tribunal, or of any liability, negligence, fault or other wrongdoing of any kind of any of the Dynex Released Parties to Lead Plaintiff, the Class or anyone else;

(b) offered or received against Lead Plaintiff or any Class Member as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by or against the Lead Plaintiff or any Class Member, or as evidence of any infirmity in the claims that have been or could have been asserted in the Action;

(c) construed against any of the Dynex Released Parties, Lead Plaintiff or any other Class Member(s) as an admission, concession or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

(d) construed against Lead Plaintiff or any other Class Member(s) as an admission, concession or presumption that any of their claims are without merit or that damages recoverable under the Second Amended Complaint would not have exceeded the amount of the Settlement Fund.

10. Upon the Effective Date, and in accordance with and to the extent required by 15 U.S.C. § 78u-4(f)(7)(A), the Dynex Released Parties shall be deemed to, and by operation of this Order and Final Judgment shall be, released from any and all claims for contribution or indemnification brought by other persons, and any and all future claims for contribution or indemnification arising out of any Released Claim belonging to the Class, including, but not limited to, any claim that is based upon, arises out of or relates to this Action or the transactions and occurrences referred to in the Second Amended Complaint, (i) by any person or entity against any Dynex Released Party and (ii) by any Dynex Released Party against any person or

entity other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii), and all such claims for contribution or indemnification are permanently barred, extinguished, discharged, satisfied, and unenforceable.

11. Upon the Effective Date, the Dynex Released Parties shall be deemed to, and by operation of this Order and Final Judgment shall be, completely released, acquitted, and forever discharged from any and all Released Claims by Lead Plaintiff, each Member of the Class, and Lead Counsel, and the failure of any Member of the Class to exclude themselves from the Class, or to obtain any payment from the Settlement Fund, whether by any action or failure to act of the Escrow Agent or Lead Counsel, or for any other reason, shall not affect the releases herein. Nor shall the releases be affected in any way by any subsequent determination that the allocation of any payments to Class Members from the Settlement Fund was unfair. Upon the Effective Date, Lead Plaintiff, Members of the Class, and Lead Counsel, shall be deemed to, and by operation of this Order and Final Judgment shall be, permanently enjoined and barred from instituting, asserting or prosecuting any Released Claim against the Dynex Released Parties.

12. The Dynex Released Parties, Lead Plaintiff, or any Class Member may file the Stipulation and/or this Order and Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

13. The notice provided by Defendants to federal and state government officials pursuant to 28 U.S.C. § 1715 satisfied the aforesaid provision, and not less than ninety (90) days have passed since the later of the dates on which the appropriate federal and state officials were served with the notice, as required under 28 U.S.C. § 1715(b).

14. The Plan of Allocation is approved as fair and reasonable, and Lead Counsel and the Claims Administrator are directed to administer the Stipulation in accordance with its terms and provisions.

15. A separate order shall be entered to approve Lead Counsel's application for fees and reimbursement of costs and expenses as allowed by the Court. The finality of this Order and Final Judgment shall not be affected, in any manner, by rulings that the Court may make on the Plan of Allocation or Lead Counsel's application for an award of attorneys' fees and reimbursement of costs and expenses.

16. Exclusive jurisdiction is retained over the Parties and the Class Members for all matters relating to the Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the Class Members.

17. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any provisions of the Stipulation that remain to be carried out.

18. In the event the Settlement does not become Final and Effective in accordance with the terms of the Stipulation, then this Order and Final Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation. Except as otherwise provided herein, in the event the Settlement is terminated or fails to become Final and Effective for any reason, the Parties shall proceed in all respects as if this Order and Final Judgment had not been entered, and any portion of the Settlement Amount previously paid or caused to be paid by Defendants, together with any interest earned thereon, less any Taxes due with respect to such income, and less the costs of administration and notice actually incurred whether paid or not paid, shall be returned, within ten (10) business days, directly to the entities that funded the Settlement amounts and notice of such return of funds shall be made to counsel for the Parties.

19. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

SIGNED this 13 day of March, 2012

~~THE HONORABLE HAROLD BAER~~
~~UNITED STATES DISTRICT JUDGE~~

SO ORDERED:

Harold Baer, Jr.
Harold Baer, Jr., U.S.D.J.
Date: 3/13/12