No. 20-8

IN THE

Supreme Court of the United States

DEUTSCHE BANK TRUST COMPANY AMERICAS, *et al.*,
Petitioners,

v.

ROBERT R. MCCORMICK FOUNDATION, *et al.*,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUPPLEMENTAL BRIEF FOR RESPONDENTS

JOEL MILLAR
WILMER CUTLER PICKERING HALE AND DORR LLP
1875 Pennsylvania Ave., NW
Washington, DC 20006

PHILIP D. ANKER
Counsel of Record
ALAN E. SCHOENFELD
RYAN M. CHABOT
WILMER CUTLER PICKERING HALE AND DORR LLP
7 World Trade Center
New York, NY 10007
(212) 230-8890
philip.anker@wilmerhale.com

Counsel for Respondents SAL Equity Trading GP (f/k/a Susquehanna Capital Group), et al.

COMPLETE LIST OF PARTIES REPRESENTED BY COUNSEL IN APPENDIX

CORPORATE DISCLOSURE STATEMENT

In its Brief in Opposition to the Petition filed August 2020, respondents included a Corporate Disclosure Statement. To the knowledge of counsel for the respondents, that Statement remains accurate, subject to the following revisions:

Barclays Capital Inc. identifies the following as parent corporations or publicly held corporations that own 10% or more of any class of its equity interests: Barclays Group US Inc., Barclays US LLC, Barclays US Holdings Limited, Barclays Bank PLC, and Barclays PLC. No other publicly traded company owns 10% or more of Barclays Capital Inc.'s stock.

Bear Stearns Asset Management Inc. is an indirect, wholly owned subsidiary of JPMorgan Chase & Co., a publicly held corporation. JPMorgan Chase & Co. does not have a parent corporation and no publicly held corporation owns 10% or more of its stock. However, The Vanguard Group, Inc., an investment adviser which is not a publicly held corporation, has reported that registered investment companies, other pooled investment vehicles and institutional accounts that it or its subsidiaries sponsor, manage or advise have aggregate ownership under certain regulations of 10% or more of the stock of JPMorgan Chase & Co.

Bear Stearns Equity Strategies RT LLC merged into Bear Stearns Equity Holdings Inc., effective September 30, 2019. Bear Stearns Equity Holdings Inc. is an indirect, wholly owned subsidiary of JPMorgan Chase & Co., a publicly held corporation. JPMorgan Chase & Co. does not have a parent corporation and no publicly held corporation owns 10% or more of its stock. However, The Vanguard Group, Inc., an investment

adviser which is not a publicly held corporation, has reported that registered investment companies, other pooled investment vehicles and institutional accounts that it or its subsidiaries sponsor, manage or advise have aggregate ownership under certain regulations of 10% or more of the stock of JPMorgan Chase & Co.

BMO Nesbitt Burns Inc. states that it is a wholly owned subsidiary of BMO Nesbitt Burns Holdings Corporation, which in turn is wholly owned by Bank of Montreal Holding Inc., which is wholly owned by the Bank of Montreal. Bank of Montreal is a publicly traded bank, incorporated under the Bank Act. No publicly held corporation owns 10% or more of the stock of the Bank of Montreal.

Great-West S&P 500 Index Fund f/k/a Maxim S&P 500 Index Portfolio is a series of Great-West Funds, Inc., f/k/a Maxim Series Fund, Inc., and are not publicly traded corporations. Great-West Life & Annuity Insurance Company is the parent of Great-West Funds, Inc. No publicly-held corporation owns 10% or more of the stock of Great-West S&P 500 Index Portfolio.

Great-West Stock Index Fund f/k/a Maxim Stock Index Portfolio is a series of Great-West Funds, Inc., f/k/a Maxim Series Fund, Inc., and are not publicly traded corporations. Great-West Life & Annuity Insurance Company is the parent of Great-West Funds, Inc. No publicly-held corporation owns 10% or more of the stock of Great-West Stock Index Fund.

JPMorgan Chase 401(k) Savings Plan is an "employee pension benefit plan" as defined by the Employee Retirement Income Security Act, income from which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code, and is sponsored by JPMorgan Chase Bank, N.A., a wholly owned subsidi-

ary of JPMorgan Chase & Co., a publicly held corporation. JPMorgan Chase & Co. does not have a parent corporation and no publicly held corporation owns 10% or more of its stock. However, The Vanguard Group, Inc., an investment adviser which is not a publicly held corporation, has reported that registered investment companies, other pooled investment vehicles and institutional accounts that it or its subsidiaries sponsor, manage or advise have aggregate ownership under certain regulations of 10% or more of the stock of JPMorgan Chase & Co.

JPMorgan Trust II is an open-end, management investment company organized as a Delaware statutory trust. JPMorgan Trust II has no parent corporation. JPMorgan Trust II issues shares of beneficial interest in series, with each series corresponding to a separate fund; the relevant fund is JPMorgan Equity Index Fund. As of March 30, 2021, no publicly held corporation owns, of record, ten percent or more of any class of shares of the JPMorgan Equity Index Fund for its own benefit, except that JPMorgan SmartRetirement Blend 2030 Fund, JPMorgan SmartRetirement Blend 2035 Fund, JPMorgan SmartRetirement Blend 2040 Fund and JPMorgan SmartRetirement Blend 2045 Fund do own more than ten percent of one of the JPMorgan Equity Index Fund's class of shares.

J.P. Morgan Whitefriars, Inc. (n/k/a J.P. Morgan Whitefriars LLC) is an indirect, wholly owned subsidiary of JPMorgan Chase & Co., a publicly held corporation. JPMorgan Chase & Co. does not have a parent corporation and no publicly held corporation owns 10% or more of its stock. However, The Vanguard Group, Inc., an investment adviser which is not a publicly held corporation, has reported that registered investment companies, other pooled investment vehicles and insti-

tutional accounts that it or its subsidiaries sponsor, manage or advise have aggregate ownership under certain regulations of 10% or more of the stock of JPMorgan Chase & Co.

L3Harris Retirement Savings Plan Master Trust, f/k/a Harris Corporation Master Trust, states that it has no parent corporation and no publicly held corporation owns 10% or more of its stock.

Manulife Investment Exchange Funds Corp. (f/k/a Manulife Invst Ex FDS Corp.-MIX) states that it is a wholly owned subsidiary of Manulife Investment Exchange Funds Corp.

Maxim Foreign Equity Portfolio is a series of Maxim Series Fund, Inc., and is not a publicly traded corporation. Great-West Life & Annuity Insurance Company is the parent of Maxim Series Fund, Inc., and is also not publicly traded. No publicly held company holds 10% or more of Great-West Life & Annuity Insurance Company.

Maxim Midcap Portfolio is a series of Maxim Series Fund, Inc., and is not a publicly traded corporation. Great-West Life & Annuity Insurance Company is the parent of Maxim Series Fund, Inc., and is also not publicly traded. No publicly held company holds 10% or more of Great-West Life & Annuity Insurance Company.

Maxim Series Fund, Inc. states that Great-West Life & Annuity Insurance Company is the parent of Maxim Series Fund, Inc. No publicly held company holds 10% or more of Great-West Life & Annuity Insurance Company.

Reed Elsevier Inc. (now known as RELX Inc.) states that its ultimate parent company is RELX PLC, which is a publicly traded company.

Russell Investments Group, LLC (incorrectly named as "Russell Investment Group") states that it is a wholly owned subsidiary of Russell Investments U.S. Institutional Holdco, Inc., whose ultimate parent company is Russell Investments Group, Ltd., a Cayman Islands company.

Russell Investments Trust Company (f/k/a Frank Russell Trust Company) states that it is a wholly owned subsidiary of Russell Investments US Institutional Holdco, Inc., whose ultimate parent company is Russell Investments Group, Ltd., a Cayman Islands company.

Scotia Capital Inc. states that it is owned entirely by The Bank of Nova Scotia, a publicly held foreign bank chartered under the Bank Act (Canada), duly organized and existing under the laws of Canada, having its Head Office in Halifax in the Province of Nova Scotia, Canada, and its Executive Offices in Toronto in the Province of Ontario, Canada. No publicly held corporation owns 10% or more of The Bank of Nova Scotia's equity interests.

Scotia Capital (USA) Inc. states that it is a wholly owned subsidiary of Scotia Holdings (US) Inc., whose ultimate parent is The Bank of Nova Scotia, a publicly held foreign bank chartered under the Bank Act (Canada), duly organized and existing under the laws of Canada, having its Head Office in Halifax in the Province of Nova Scotia, Canada, and its Executive Offices in Toronto in the Province of Ontario, Canada. No publicly held corporation owns 10% or more of The Bank of Nova Scotia's equity interests.

Susquehanna Capital Group has changed its name to SAL Equity Trading GP, and is owned 99.9% by SAL Equity Holding, LLC and 0.1% by SAL Equity Partner, LLC. No publicly held corporation owns 10% of more of the stock of any of these entities.

Susquehanna Investment Group is owned 99.9% by Susquehanna International Group, LLP and 0.1% by Bodel, Inc. No publicly held corporation owns 10% of more of the stock of any of these entities.

The corporate disclosure for respondent SIG-SS CBOE Joint Account set forth in the Brief in Opposition remains accurate aside from the changes to Susquehanna Investment Group described above.

Transamerica Life Insurance Company's ("TLIC") (f/k/a Transamerica Premier Life Insurance Company, f/k/a Monumental Life Insurance Company) sole shareholder is Commonwealth General Corporation ("Commonwealth"). Commonwealth's sole shareholder is Transamerica Corporation. TLIC, Commonwealth, and Transamerica Corporation are indirect subsidiaries of AEGON N.V., which is a publicly traded holding company with its headquarters in The Hague, the Netherlands. American Depository Receipts of AEGON N.V. are also listed on the New York Stock Exchange under the ticker symbol AEG.

UBS Asset Management (Americas) Inc., formerly known as UBS Global Asset Management (Americas) Inc., states that it is a wholly owned subsidiary of UBS Americas Inc., which is wholly owned by UBS Americas Holding LLC, which is wholly owned by UBS AG, which is wholly owned by UBS Group AG, a publicly traded corporation. No publicly held corporation owns 10% or more of UBS Group AG stock.

MUFG Union Bank N.A., formerly known as Union Bank, N.A., states that it is a wholly owned subsidiary of MUFG Americas Holdings Corporation, which in turn is 99% owned by MUFG Bank, Ltd., and 1% owned by Mitsubishi UFJ Financial Group. MUFG Bank, Ltd. is a wholly owned subsidiary of Mitsubishi UFJ Financial Group.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

DOCKETED CASES

STATUTORY PROVISIONS

The United States' brief demonstrates why the petition should be denied.

1. The United States is correct that the first question presented does not warrant review. That question concerns whether there should be any presumption against preemption in bankruptcy cases. As the United States explains, the "alleged conflict" between the Second Circuit's supposed holding and the decisions of four other courts of appeal is "illusory." U.S. Br. 7, 17-18.

The purported "holding" of the Second Circuit to which petitioners point is no holding at all. The court simply remarked in a single sentence that the Bankruptcy Code effects a "wholesale preemption" of creditors' state-law rights. Pet. App. 34a. That sentence was correct in the narrow context in which the Second Circuit wrote it—namely, that when a debtor files for bankruptcy, federal bankruptcy law imposes an "automatic stay" on all state-law creditor collection actions, including fraudulent transfer actions, and gives the bankruptcy trustee the exclusive right to pursue such claims. *Id.* 34a-35a.

In any event, this Court reviews judgments, not a stray sentence in an opinion. *See, e.g.*, *California* v. *Rooney*, 483 U.S. 307, 311 (1987) (per curiam); *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842 (1984). The judgment of the Second Circuit does not merit review. The court's full opinion makes clear that the Second Circuit acknowledged the "recognized presumption against preemption" and merely concluded that the presumption carried less "weight" in "the *present matter*," which involves a long "history of significant federal presence" in the regulation of creditor rights in bankruptcy and the

securities markets, rather than an "area recognized as traditionally one of state law alone." Pet. App. 33a-36a (emphasis added). As the United States observes, "the Second Circuit's articulation of the applicable preemption standard does not appear to conflict with the holding of any other court of appeals." U.S. Br. 18; *see also* Opp. 8-10, 15-20.

Even if the Second Circuit had articulated the law on preemption differently from how other courts of appeals have, this case would present a poor vehicle to review any "abstract differences" in the courts' approach to this area of law. As the United States recognizes, the "presumption is not outcome-determinative here." U.S. Br. 18-19; *see also* Opp. 20.

2. The United States is also correct that the second question presented is not worthy of review. That question concerns the Second Circuit's determination that, on the facts of this case, Bankruptcy Code §546(e) preempted the creditors' state-law fraudulent transfer claims to recover the safe-harbored payments Tribune made to acquire their stock. As the United States notes (Br. 16), the Second Circuit's holding does not conflict with the decision of any other court of appeals, or with this Court's decision in *Merit Management Group, LP* v. *FTI Consulting, Inc.*, 138 S. Ct. 883 (2018). U.S. Br. 7, 15-17; Opp. 20-22.

Even if the question recurs with any frequency in other cases (something the United States doubts (Br. 16)), the Court should wait until additional courts of appeals have addressed the question before considering whether to review the issue. The amicus brief it filed in this case is the first occasion in which the United States has addressed that question. Litigants have begun to

cite the United States' brief.[1] Petitioners counter that the issue is likely to arise only, or at least predominantly, in the Second Circuit, but their own supplemental brief (4-5, 10) cites cases regarding §546(e) in lower courts in the Third and Sixth Circuits. Percolation in the circuits could afford the Court the benefit of further development and consideration of the question.

For example, the United States urges that any conflict between the bankruptcy trustee's administration of the bankruptcy case and creditors' pursuit of state-law fraudulent-transfer claims can be addressed through the Bankruptcy Code's automatic-stay provision, rather than preemption. U.S. Br. 9-15. But Section 546(e) bars creditors' state-law fraudulent-transfer claims to avoid certain securities transfers in the hands of the bankruptcy trustee, the only party authorized by Congress to bring any such claims upon the filing of a federal bankruptcy case and the creditors' statutory "successor" and representative in bankruptcy. *See* 11 U.S.C. §§544(b)(1), 546(e); 28 U.S.C. §1409(c). In this case, the creditors' committee, standing in the trustee's shoes, deliberately consented to the lifting of the stay and relinquished the trustee's authority to bring such fraudulent-transfer claims so that the creditors (petitioners) could seek to bring the same claims under state law that §546(e) barred the trustee from bringing on their behalf, in what the Committee admitted was a conscious attempt to "end run" the safe harbor. Opp. 5-6. Recognizing this, the Securities and Exchange Commission filed an amicus brief in the Second Circuit

---

[1] *See, e.g.*, FRAP 28(j) Letter, *In re Nine West LBO Sec. Litig.*, Nos. 20-3257-cv(L), -3920, -3315, -3326, -3327, -3334, -3335, -3941, -3952, -3959, -3961, -3964, -3969, -3980, -3981, -3992, -3998 (2d Cir. Mar. 19, 2021), Dkt. No. 247.

in this case arguing that if petitioners' "work around" of the Bankruptcy Code's safe harbor were to succeed, other creditors in other bankruptcy cases could adopt the same approach and §546(e)'s protection of the securities markets would be undermined.[2]

Waiting to see whether creditors continue seeking to circumvent the safe harbor, and, if so, allowing other courts of appeals to address the preemption question in light of the further experience provided by other cases, will sharpen the issue. And if this Court's review of the issue will be needed at all, the Court will then be able to examine the question in a case that does not present potential recusal problems, as this one does. *See* Opp. 29-32.

Moreover, there is an alternative ground for affirmance in this case, independent of preemption. The Second Circuit considered respondents' additional argument for dismissal of petitioners' claims—that, under long-standing precedent and as a matter of statutory construction, petitioners' state-law fraudulent-transfer claims vested in the bankruptcy trustee upon the bankruptcy filing and never "reverted" to petitioners free and clear of §546(e)'s safe harbor—but ultimately did not decide that question because it held that §546(e) preempted petitioners' claims in any event. Opp. 27-29. This, too, counsels in favor of denying the petition.

3. Finally, the United States is correct that the third question presented also does not warrant this Court's review. That question presents an isolated issue of statutory construction that turns on an unusual definition found only in the Bankruptcy Code and on

---

[2] *See* SEC Br. 2-3, *In re Tribune Co. Fraudulent Conveyance Litig.*, No. 13-3992 (2d Cir.), Dkt. No. 161.

the particular circumstances of the transaction at issue: whether Tribune was a "financial institution" under Bankruptcy Code §101(22) in that it was a "customer" of a bank (Computershare) that was acting as "agent" for Tribune "in connection with a securities contract." 11 U.S.C. §101(22).

As the United States notes, very few cases have considered the "customer" prong of this statutory definition, and the Second Circuit's decision below did not split from that of any other Circuit. U.S. Br. 21-22. The Second Circuit construed the definition in a manner that is faithful to this Court's precedents: by construing terms in the definition that are themselves defined elsewhere in the Code in accordance with those definitions ("securities contract") and by construing other terms that are not so defined but have well-established common law meanings ("agent") in accordance with those meanings. *See* Pet. App. 22a-30a; Opp. 13-14. While the United States posits (at 7, 19-21) that this reading is "questionable," its musings are not based on any analysis of the definition's text.

Although recognizing that this question is not worthy of review, and that *Merit Management* "expressly declined" to address the "customer" prong in the definition of the term "financial institution" (U.S. Br. 20), the United States suggests that the Second Circuit's holding could render *Merit Management* a "virtual nullity." *Id.* 19. But this speculation, like that offered by petitioners regarding the implications of the Second Circuit's decision, is just that—speculation—and illustrates why this case would be a poor vehicle to consider the question presented.

The Bankruptcy Code includes a customer of a bank within the definition of a "financial institution"

only if the bank acts as "agent" for the customer "in connection with a securities contract." 11 U.S.C. §101(22). Here, Computershare contracted with Tribune specifically to act as its agent in connection with Tribune's contract to acquire the stock held by its public shareholders. Computershare agreed to take Tribune's money and, acting on Tribune's behalf, to pay it out to Tribune's shareholders in return for the surrender and cancellation of their shares. That is quite different from the far more limited role of a drawee bank in processing checks or wire transfers, a role that has been held not to create a principal-agent relationship. *See, e.g.*, *Roberts* v. *Wachovia Bank, N.A.*, 2010 WL 3629591, at *3 (S.D.N.Y. Sept. 16, 2010). Nothing in the Second Circuit's decision in this case would make a bank the "agent" of a customer "in connection with a securities contract" merely because it processed a check or wire transfer used to buy stock or bonds. If a future case nevertheless treats the customer prong of the Code's definition of "financial institution" as satisfied simply because a bank processes a check or wire transfer for a depositor, the Court can consider whether to review such a case. This case simply does not present that issue, and it would be premature to address it in any event, as the government recognizes.

* * * * *

Petitioners thus offer no valid reason that the questions presented warrant the Court's attention in this case and at this time. Indeed, perhaps aware of that fatal flaw, petitioners suggest that the Court should summarily reverse or take other unprecedented measures based on the amicus brief of the United States. Pet. Supp. Br. 11-12. But those extraordinary requests simply underscore that what petitioners seek is error correction. That alone does not warrant this

Court's review, and in any event the Second Circuit's decision is correct.

CONCLUSION

For these reasons and those set forth in respondents' brief in opposition to the petition, the petition should be denied.

Respectfully submitted.

MARK A. NEUBAUER
CARLTON FIELDS, LLP
2029 Century Park East
Suite 1200
Los Angeles, CA 90067
Counsel for The Alfred W. Merkel Marlowe G. Merkel Trust UA 11 Sept 85, et al.

ELLIOT MOSKOWITZ
DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, NY 10017
Counsel for Bear Stearns Asset Management, Inc., et al.

PHILIP D. ANKER
Counsel of Record
ALAN E. SCHOENFELD
RYAN M. CHABOT
WILMER CUTLER PICKERING HALE AND DORR LLP
7 World Trade Center
New York, NY 10007
(212) 230-8890
philip.anker@wilmerhale.com

JOEL MILLAR
WILMER CUTLER PICKERING HALE AND DORR LLP
1875 Pennsylvania Ave., NW
Washington, DC 20006
Counsel for Respondents SAL Equity Trading GP (f/k/a Susquehanna Capital Group), et al.

MICHAEL S. DOLUISIO
STUART T. STEINBERG
DECHERT LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104-2808

Counsel for Aegon/ Transamerica Series Fund – TRP, et al.

ANDREW J. ENTWISTLE
ENTWISTLE & CAPPUCCI LLP
299 Park Avenue
20th Floor
New York, NY 10171

Counsel for GAMCO Asset Management, Inc., The Public Employees' Retirement Association of Colorado, and The State Universities Retirement System of Illinois

MATTHEW D. MCGILL
OSCAR GARZA
DOUGLAS LEVIN
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Ave., NW
Washington, DC 20036

Counsel for Chandler Trust No. 1 & Chandler Trust No. 2, et al.

SABIN WILLETT
MICHAEL C. D'AGOSTINO
MORGAN LEWIS & BOCKIUS LLP
One Federal Street
Boston, MA 02110

Counsel for Aetna, Inc., et al.

DANIEL L. CANTOR
DANIEL S. SHAMAH
O'MELVENY & MYERS LLP
Times Square Tower
7 Times Square
New York, NY 10036

Counsel for Bank of America, N.A., et al.

DAVID N. DUNN
PHILLIPS, DUNN, SHRIVER & CARROLL, P.C.
147 Western Avenue
Brattleboro, VT 05301

Counsel for Ciri Gillespie, et al.

KANNON K. SHANMUGAM
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
2001 K STREET, N.W.
WASHINGTON, DC 20006

MATTHEW L. FORNSHELL
ICE MILLER LLP
250 West Street
Columbus, OH 43215
Counsel for Illinois Municipal Retirement Fund, et al.

JOEL W. STERNMAN
KATTEN MUCHIN ROSENMAN LLP
575 Madison Avenue
New York, NY 10022
Counsel for Barbara Alter (individually), et al.

ALAN J. STONE
ANDREW M. LEBLANC
MILBANK LLP
55 Hudson Yards
New York, NY 10001
Counsel for Amalgamated Bank, et al.

ERIN MURPHY
KIRKLAND & ELLIS LLP
1301 Pennsylvania Ave., NW
Washington, DC 20004
GABOR BALASSA
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Counsel for Cantigny Foundation & Robert R. McCormick Foundation

ANDREW G. GORDON
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019
Counsel for Citibank, N.A. et al.

STEPHEN L. RATNER
DAVID A. PICON
RUSSELL T. GORKIN
PROSKAUER ROSE LLP
11 Times Square
New York, NY 10036
Counsel for 1199SEIU Health Care Employees Pension Fund, et al.

DOUGLAS HALLWARD-DRIEMEIER
ROPES & GRAY LLP
2099 Pennsylvania Ave., NW
Washington, DC 20006-6807
Counsel for APG Asset Management US Inc. F/K/A ABP Investments US, Inc. (incorrectly named as ABP), et al.

GARY STEIN
WILLIAM H. GUSSMAN, JR.
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, NY 10022
Counsel for Adage Capital Advisors Long, et al.

COMPLETE LIST OF PARTIES REPRESENTED BY COUNSEL IN APPENDIX

APRIL 2021

APPENDIX

COMPLETE LIST OF PARTIES REPRESENTED BY COUNSEL

PHILIP D. ANKER
Counsel of Record
ALAN E. SCHOENFELD
RYAN M. CHABOT
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
New York, NY 10007
(212) 230-8890
philip.anker@wilmerhale.com

JOEL MILLAR
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Ave., NW
Washington, DC 20006

Counsel for Respondents SAL Equity Trading GP (f/k/a Susquehanna Capital Group), Susquehanna Investment Group, and Susquehanna Investment Group as custodian of the SIG-SS CBOE Joint Account

MARK A. NEUBAUER
CARLTON FIELDS, LLP
2029 Century Park East
Suite 1200
Los Angeles, CA 90067

Attorneys for Defendants ACT, Inc. Large-Cap Value Fund; Richard H. Askin, Carol Askin, Askin Family Trust; Axelson Fam. Limited Partnership, Stephen Axelson, Linda Axelson; The Paul and Kathleen Bissinger Revocable Trust dated September 30, 1987, as amended, Paul A. Bissinger, Jr., Kathleen B. Bissinger, Trustees;

Mark C. Boe Trust U/A DTD 07/20/2000, Mark C. Boe, Trustee; Jason H. Camassar; Carolyn I. Camassar; Terrill F. Cox & Lorraine M. Cox Trust U/A DTD 3/31/98; Jeanette Day Family Trust U/A DTD 10/04/1994; Peter J. Fernald, as Trustee of The Peter J. Fernald Trust U/A 1/13/92; The Peter J. Fernald Trust U/A 1/13/92; Evelyn A. Freed Trust U/A/D 03/26/90 Brandes-All Cap Value; Debra A. Gastler; Richard L. Goldstein; Leonidia Gonsalves; Gulley Family Trust U/A 7/27/00, Patsy J. Gulley, Trustee; Charles W. Hammond Trust, James P. Hammond, Trustee; Muriel S. Harris; Matthew Gerard Hartmann and Lisa Marie Hartmann JTWROS, Jim Hicks, as Trustee of the Jim Hicks & Co. Employee Profit-Sharing Plan; Mark Allen Itkin; Jason A. Janik; Emil Kratochvil; Darell F. Kuenzler; Darell F. Kuenzler IRA; Chase L. Leavitt, as Trustee of the Philip B. Chase Revocable Trust Dated 07/28/94; Douglas M. & Judith A. Light Rev. Trust, D. Light & J. Light, Trustees; Robert C and Nancy Lobdell Family Trust UA 08/20/96, Nancy Lobdell, Trustee; Raymond M. Luthy Trust; Philip V. Mann; Susan J. Martin, individually, and as Beneficiary of the Estate of Shirley J. Sperling; Lawrence Marwill, MSSB, Custodian; Jack E. Meadows; Jane D. Meadows; Marlowe G. Merkel, as Trustee of The Alfred W. Merkel Marlowe G. Merkel Trust UA 11 Sept 85; The Alfred W. Merkel Marlowe G. Merkel Trust UA 11 Sept 85; Renee H. Miller; Robert N. Mohr, Successor Trustee to Joseph B. Mohr, as Trustee of the J&M Trust UA Dated 07/23/1992; Durham J. Monsma; Robbie E. Monsma; Miles Adrian Collet Murray; OMA OPA LLC; Denise Palmer Revocable Trust U/A/D 10-28-1991, Denise E. Palmer, Trustee; John Patinella; Posen Family Limited Partnership; Myrna Ramirez and Monserrate Ramirez JTWROS; Javad Rassouli; Reichhold, Inc.; Robert H. Ricciardi and Cher Dellin Ricciardi; Cindy L.

Schreuder IRA Rollover, Charles Schwab & Co. Inc., Custodian; Jack V. Secord IRA, FCC, Custodian (Pilot Plus); Marlene F. Slade Rollover IRA, National Financial Services LLC/Fidelity Management Trust Co., Custodian; William F. Thomas; Kuang C. Yeh IRA Rollover Fidelity Management Trust Co. Cust.

ERIN MURPHY
KIRKLAND & ELLIS LLP
1301 Pennsylvania Ave., NW
Washington, DC 20004

GABOR BALASSA
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

Counsel for Cantigny Foundation & Robert R. McCormick Foundation

ELLIOT MOSKOWITZ
DAVIS POLK &
WARDWELL LLP
450 Lexington Avenue
New York, NY 10017

Counsel for Bear Stearns Asset Management, Inc.; Bear Stearns Equity Strategies RT LLC; JPMorgan Chase 401(k) Savings Plan; JPMorgan Trust II; and J.P. Morgan Whitefriars, Inc.

MICHAEL S. DOLUISIO
STUART T. STEINBERG
DECHERT LLP
Cira Centre

2929 Arch Street
Philadelphia, PA 19104-2808

Counsel for Aegon/Transamerica Series Fund – TRP; Board of Trustees of the Colleges of Applied Arts and Technology Pension Plan, As Administrator of Colleges of Applied Arts and Technology Pension Plan; Charles Schwab & Co., Inc, as Custodian for Brent V. Woods IRA Rollover; Charles Schwab & Co., Inc, as Custodian of the George William Buck SEP-IRA DTD 04/08/93; Charles Schwab & Co., Inc, as Custodian of the Peter Marino IRA Rollover; Clearwater Growth Fund (n/k/a Clearwater Core Equity Fund); DIA MID CAP Value Portfolio; Harbor Capital Advisors, Inc.; Harbor Capital Group Trust for Defined Benefit Plans (incorrectly named as "Harbor Capital Group Trust"); Harbor Mid Cap Value Fund; J. Goldman & Co., L.P. (incorrectly named as "Jay Goldman & Co., LP"); J. Goldman, L.P. (f/k/a Jay Goldman Master Limited Partnership) (incorrectly named as "Jay Goldman Master LP"); John Hancock Life Insurance Company (USA) as successor-in-interest to John Hancock Financial Services, Inc.; John Hancock Funds II; John Hancock Funds II Equity Income Fund (incorrectly named as "John Jancock Funds II (Equity-Income Fund)"and "JHF II Equity-Income Fund"); John Hancock Funds II Spectrum Income Fund (incorrectly named as "John Hancock Funds II (Spectrum Income Fund)" and "JHF II Spectrum Income Fund"); John Hancock Variable Insurance Trust New Income Trust (incorrectly named as "John Hancock Variable Insurance Trust (F/K/A John Hancock Trust (New Income Trust)," "John Hancock Variable Insurance Trust," and "JHT New Income Trust"); Linda Molenda; Manulife Asset Management (US) LLC (n/k/a Manulife Investment Management (US) LLC); Manulife Invst Ex FDS Corp.-MIX; Manulife Investment Management (f/k/a Manulife Invest-

ments (f/k/a "Manulife Mutual Funds")); Manulife U.S. Equity Fund; MassMutual Premier Enhanced Index Value Fund (currently known as MassMutual Premier Disciplined Value Fund); MassMutual Premier Funds; MassMutual Premier Main Street Small/Mid Cap Fund (f/k/a "MassMutual Premier Main Street Small Cap Fund"); MassMutual Premier Small Company Opportunities Fund (currently known as MassMutual Premier Small Cap Opportunities Fund); MassMutual Select Diversified Value Fund; MassMutual Select Funds; MassMutual Select Indexed Equity Fund (currently known as MM S&P 500 Index Fund); MML Blend Fund; MML Series Investment Fund; MML Series Investment Fund II; Monumental Life Insurance Company; Monumental Life Insurance Co. F/K/A Peoples Benefit Life Insurance Company; Monumental Life Insurance Co., as Owner of Teamsters Separate Account (Monumental Life Insurance Company, on Behalf of Separate Account L-32) (incorrectly named as "Monumental Life Insurance Co., as Owner of Teamsters Separate Account (Monumental Life Insurance Company, on Behalf of Separate Account L-23)"); OFI Private Investments, Inc.; Oppenheimer Main Street Select Fund (formerly known as Oppenheimer Main Street Opportunity Fund); Oppenheimer Main Street Mid Cap Fund (formerly known as Oppenheimer Main Street Small Cap Fund); Oppenheimer Variable Account Funds doing business as Oppenheimer Main Street Small & Mid-Cap Fund/VA (formerly known as Oppenheimer Main Street Small Cap Fund/VA); OppenheimerFunds, Inc.; optionsXpress, Inc. (n/k/a Charles Schwab Futures, Inc.); Pacific Select Fund Equity Index PortfolioProShares Ultra S&P500 (incorrectly named as "Pro Shares Ultra S&P 500"); Russell Investment Company; Russell Investment Group, LLC; Russell Investments Trust Company (f/k/a "Frank

Russell Trust Company"); Russell U.S. Core Equity Fund (incorrectly named as "Russell US Core Equity Fund," and f/k/a "Russell Equity I Fund" and "Russell Investment Company Diversified Equity Funds"); Rydex ETF Trust (Guggenheim S&P 500 Pure Value ETF) (incorrectly named as "Rydex ETF Trust (Rydex S&P 500 Pure Value ETF)"); Rydex ETF Trust (Guggenheim S&P 500 Equal Weight Consumer Discretionary ETF) (incorrectly named as "Rydex ETF Trust (Rydex S&P Equal Weight Consumer Discretionary ETF)"); Rydex ETF Trust (Guggenheim S&P 500 Equal Weight ETF) (incorrectly named as "Rydex ETF Trust (Rydex S&P Equal Weight ETF)"); Rydex Investments; Rydex Series Funds; Rydex Series Funds Multi-Hedge Strategies Fund; Rydex Series Funds S&P 500 Pure Value Fund; Rydex Variable S&P 500 Pure Value Fund; Rydex Variable Trust; Rydex Variable Trust Multi-Hedge Strategies Fund; SBL Fund Series H; SBL Fund Series O; Security Global Investors-Rydex/SGI; Security Investors, LLC; Transamerica Partners Mid Cap Value; Transamerica Partners Mid Cap Value F/K/A Diversified Investors Portfolios; Transamerica Mid Cap Value Opportunities (f/k/a Transamerica Partners Mid Value Portfolio f/k/a Transamerica Partners Mid-Cap Value Portfolio f/k/a Diversified Investors Mid-Cap Value Portfolio); Transamerica Partners Portfolios (f/k/a Diversified Investors Portfolios); Victory 500 Index VIP Series (f/k/a RS S&P 500 Index Series, incorrectly named as "Guardian Investors Services LLC and Guardian VC 500 Index Fund, John Doe as Owner of); and Woodmont Investments Ltd.

ANDREW J. ENTWISTLE
ENTWISTLE & CAPPUCCI LLP
299 Park Avenue

20th Floor
New York, NY 10171

Counsel for GAMCO Asset Management, Inc., The Public Employees' Retirement Association of Colorado, and The State Universities Retirement System of Illinois

MATTHEW D. MCGILL
OSCAR GARZA
DOUGLAS LEVIN
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Ave., NW
Washington, DC 20036

Counsel for Alberta W. Chandler Marital Trust No. 2; Allegro Associates; Camilla Chandler Family Foundation; Chandis Securities Company; Chandler Trust No. 1; Chandler Trust No. 2; Dorothy B. Chandler Marital Trust No. 2; Dorothy B. Chandler Residuary Trust No. 2; Earl E. Crowe Trust No. 2; Garland Foundation Trust No. 2; Helen Garland Trust No. 2 (for Gwendolyn Garland Babcock); Helen Garland Trust No. 2 (for Hillary Duque Garland); Helen Garland Trust No. 2 (for William M. Garland III); HOC GST Exempt Trust No. 2. FBO Eliza Haskins; HOC GST Exempt Trust No. 2. FBO John Haskins; HOC GST Exempt Trust No. 2. FBO Scott Haskins; HOC Trust No. 2 FBO Eliza Haskins; HOC Trust No. 2 FBO John Haskins; HOC Trust No. 2 FBO Scott Haskins; Marian Otis Chandler Trust No. 2; May C. Goodan Trust No. 2; Patricia Crowe Warren Residuary Trust No. 2; Philip Chandler Residuary Trust No. 2; and Ruth C. Von Platen Trust No. 2

MATTHEW L. FORNSHELL
ICE MILLER LLP

250 West Street
Columbus, OH 43215

Counsel for Illinois Municipal Retirement Fund, School Employees Retirement System of Ohio, Ohio Public Employees Retirement System, Pensions Reserve Investment Management Board of Massachusetts, Texas Education Agency, and Employee Retirement System of Texas

JOEL W. STERNMAN
KATTEN MUCHIN ROSENMAN LLP
575 Madison Avenue
New York, NY 10022

Counsel for Barbara Alter (individually); Barbara Alter 2002 Declaration of Trust dated 12/12/02; and Barbara Alter as Trustee of Barbara Alter 2002 Declaration of Trust dated 12/12/02; Baron Don & Irene Family Trust 7B-251; Donald Baron and Irene Baron; BOEING Company Employees Retirement Plans Master Trust, Current Trustee; Bosau, Rose T., Designated BENE Plan/TOD; Bosau, Robert D., Designated BENE Plan/TOD; BW Opportunity Partners f/k/a Talon Opportunity Partners; Rapkin, Marilyn; Cahn, Kenneth; Cahn, Kenneth (trustee of Dorothy Cahn Trusts - 1981 and 1982); Chilla, Milan and Milan E Chilla Cust FPO IRA; Cogent Investment Strategies Fund, SPC-Class D; Cook Entities - Stanton R Cook Charitable Remainder Trust; Cook Entities - Scott Cook; Diamond - John B. Diamond Declaration of Trust Dated April 15, 2010; Diamond - Terry Diamond, as Trustee U/W of Sol Diamond Dated December 4, 1972; Diamond - Terry Diamond, Beneficiary Terry Diamond IRA; Diamond - The Diamond Family Foundation; Diamond - The Terry Diamond Trust Dated May 7, 1986; Diamond Consolidated L.P.; Di-

amond, Marilyn R. Trust Dated November 11, 1988; Ferris Trading; Fiduciary Management Association - Vorisek, Kathryn, as Trustee FBO Robert Wesley Thornburgh; Fiduciary Mgt Assoc. LLC 401k FBO Robert Wesley Thornburgh; Fuller - Trust by Alyce Tuttle Fuller U/A Dtd 10/3/03; Graff Profit Sharing Plan; Graff, Michael; Greenspahn, David; HFF 1 (Hite Capital); HFR Asset Mgmt. LLC; HFR RVA Combined Master TR; Jore - Wendt Trust (Lloyd) (Jore, Bette); Kirkpatrick, Bruce; Kovler, John (GS); Kovler, John (Ret); Linnen - WPML Limited Partnership (Linnen, Joe); Madigan Trust (John); Madigan, Griffith , individually and as custodian of Griffith Patrick Madigan UTMA WI; Madigan, John (as Trustee of the John W. Madigan Trust U/A DTD 5/15/1998)); Madigan, John (individually); Madigan, Mark; Madigan, Stephanie; Madison Street Fund LP; Metzner Family Foundation 1M-579; Mark Metzger; Perry Partners LP; Rumsfeld, Donald (Terry Robbins); Salvation Army Central Territory; Schuster, Lisa/ Estate of Beverly Perry; Waterman Broadcasting Employee Profit Sharing Plan; Waterman, Bernard and Edith; WHI Growth Fund; William Blair Company; Wolverine Convertible Arbitrage Fund (WCAF); Wolverine Trading (WT).

KANNON K. SHANMUGAM
PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP
2001 K Street, NW
Washington, DC 20006

ANDREW G. GORDON
PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP
1285 Avenue of the Americas

New York, NY 10019

Counsel for Citibank, N.A. as Custodian for Prism Partners Offshore; Citibank, National Association, in its Individual and Custodial Capacities; Citigroup Global Markets, Inc.; Citigroup Pension Plan Trust, and its Trustee, the Bank of New York Mellon, in its Capacity as Trustee thereof; and Citigroup Securities Services, Inc.

ALAN J. STONE
ANDREW M. LEBLANC
MILBANK LLP
55 Hudson Yards
New York, NY 10001

Counsel for Amalgamated Bank; Barclays Bank PLC; Barclays Capital Inc.; Barclays Capital Securities Ltd.; BMO Nesbitt Burns Employee Co-Investment Fund I (U.S.) L.P.; BMO Nesbitt Burns Employee Co-Investment Fund I Management (U.S.) Inc.; BMO Nesbitt Burns Inc.; Bank of Montreal Holding Inc. (as successor in interest to BMO Nesbitt Burns Trading Corp. S.A.); BMO Nesbitt Burns U.S. Blocker Inc.; BNP Paribas Securities Corp.; Canadian Imperial Holdings, Inc.; CIBC World Markets Corp.; CIBC World Markets, Inc.; Commerz Markets LLC; Commerzbank AG; Cooper Neff Advisors, Inc.; Credit Suisse (USA), Inc.; Credit Suisse Securities (Europe) Limited; Credit Suisse Securities (USA) LLC; D. E. Shaw Valence Portfolios, L.L.C.; Deutsche Bank AG; Deutsche Bank AG, Filiale Amsterdam; Goldman Sachs Execution & Clearing, L.P.; Goldman Sachs International Holdings LLC; Goldman Sachs & Co. LLC, formerly known as Goldman, Sachs & Co.; GS Investment Strategies LLC; Homeland Insurance Co. of New York; Lyxor/Canyon Value Realization Fund Ltd.;

Mill Shares Holdings (U.S.) Ltd. (formerly Mill Shares Holdings (Bermuda) Ltd.); Neuberger Berman BD LLC, formerly known as Neuberger Berman LLC; OneBeacon Insurance Savings Plan (a/k/a OneBeacon Insurance Savings Plan – Equity 401k and OneBeacon Insurance Savings Plan – Fully Managed); OneBeacon Pension Plan (f/k/a OneBeacon Insurance Pension Plan); PNC Bank, National Association; RBC Capital Markets Arbitrage, S.A., formerly known as RBC Capital Markets Arbitrage, LLC; RBC Capital Markets, LLC; RBC Global Asset Management, Inc.; RBC O'Shaughnessy U.S. Value Fund; Royal Bank of Canada; Royal Trust Corporation of Canada; Schultze Asset Management, LP, formerly known as Schultze Asset Management, LLC; Scotia Capital (USA) Inc.; Scotia Capital Inc.; SG Americas Securities, LLC; State Street Bank and Trust Company; State Street Bank Luxembourg, S.A.; State Street Global Advisors (Japan) Co., Ltd.; State Street Global Advisors, Inc.; State Street Trust and Banking Company, Limited; Swiss American Corporation; Swiss American Securities, Inc.; TD Ameritrade Clearing, Inc.; The Bank of Nova Scotia; UBS AG; UBS Financial Services, Inc.; UBS Asset Management (Americas) Inc., formerly known as UBS Global Asset Management (Americas) Inc.; UBS Global Asset Management (US) Inc.; UBS O'Connor LLC; UBS Securities LLC; MUFG Union Bank, N.A., formerly known as Union Bank, N.A.; Variable Insurance Products Fund II – Index 500 Portfolio; and Workers Compensation Board

SABIN WILLETT
MICHAEL C. D'AGOSTINO
MORGAN LEWIS & BOCKIUS LLP
One Federal Street
Boston, MA 02110

Counsel for Aetna, Inc.; BNA Employees' Retirement Plan, incorrectly named as "Bureau of Natl Affairs Ret"; Sharon Christhilf; The Church Pension Fund, in its individual and trustee capacities; Los Angeles City Employees' Retirement System; Los Angeles Fire and Police Pension System; DL Partners, LP; Great-West Life & Annuity Insurance Company; Maxim Foreign Equity Portfolio; Maxim Series Fund, Inc.(n/k/a Great-West Funds, Inc.); L3Harris Retirement Savings Plan Master Trust, f/k/a Harris Corporation Master Trust, incorrectly named as "Harris Corp. Retirement Trust"; Teachers Retirement System of the State of Illinois; VY T. Rowe Price Equity Income Portfolio (f/k/a ING T. Rowe Price Equity Income Portfolio), a series of Voya Investors Trust (f/k/a ING Investors Trust); The Kraft Group; Laborers' District Council & Contractors Pension Fund of Ohio; QS S&P 500 Index Fund (f/k/a Legg Mason Batterymarch Financial Management S&P 500 Index Fund), a series of the Legg Mason Partners Equity Trust, incorrectly named as "Legg Mason Partners"; Madison Square Investors Large-Cap Enhanced Index Fund LP (f/k/a NYLIM-QS Large Cap Enhanced Fund LP), incorrectly named as "NYLIM-QS Large Cap Enhanced Fund LP" and also incorrectly named as "Madison Square Investors Large-Cap Enhanced Index Collective Index Fund f/k/a NYLIM Large-Cap Enhanced Index Collective Fund"; New York Life Insurance Company; Maryland State Retirement and Pension System; Milliken Retirement Plan, incorrectly named as "Miliken Stock Fund (7R)" and also incorrectly named as "Miliken Stock Fund (7R) T. Rowe Price Trust Co."; National Railroad Retirement Investment Trust; NorthShore University HealthSystem Second Century Fund; NorthShore University HealthSystem, as Owner of the NorthShore University HealthSystem Second Century

Fund; Northwestern Mutual Series Fund, Inc.; Northwestern Mutual Life Insurance Company; Ohio National Fund, Inc., incorrectly named as "Ohio Natl Fund, Inc. Strategic Value Portfolio" and as "John Doe, as Owner of Ohio Natl Fund, Inc. Strategic Value Portfolio Ohio National Financial Services"; Dorothy D. Park; Advanced Series Trust - AST QMA US Equity Alpha Portfolio; Prudential Insurance Company of America, incorrectly named as "Prudential Insurance Co. of America (PMFIM), a/k/a PICA- Prudential Insurance Company Separate Account" and as "Prudential Inusrance Co. of America (PMFIM)" and also as "Prudential Insurance Co. of America (PDI)"; PGIM, Inc. (f/k/a Prudential Investment Management, Inc.); Prudential Retirement Insurance and Annuity Company; Stock Index Portfolio, a Series of the Prudential Series Fund, Inc.; Conservative Balanced Portfolio, a Series of the Prudential Series Fund, Inc.; Prudential Investment Portfolios 3 – Prudential QMA Strategic Value Fund (f/k/a "Strategic Partners Opportunity Funds"); Prudential Investment Portfolios 8 – Prudential QMA Strategic Value Fund; Redwood Master Fund, Ltd.; Hanna Jonas Miller; Ruth McCormick Tankersley Revocable Trust, Dated October 6, 1992, incorrectly named as Ruth McCormick Tankersley, as Trustee of the 10/06/92 Ruth McCormick Tankersely Revocable Trust, and also incorrectly named as The 10/06/92 Ruth McCormick Tankersley Revocable Trust," also incorrectly named as "Ruth McCormick Tankersley Trust Dated 12/03/1990," and also incorrectly named as "The 10/06/92 Ruth McCormick Tankersley Revocable Trust"; Ruth McCormick Tankersley; Ellen Johnson Twaddell; William Sanderson Twaddell; Tiffany Tankersley; Trustees of the Walters Art Gallery, Inc., d/b/a the Walters Art Museum, incorrectly named as "Walters Trustees Consolidated Fund

– Fixed Income"; Vermont State Employees Retirement System; Board of Administration of the Water and Power Employees' Retirement Plan of the City of Los Angeles; and Weiss Multi-Strategy Partners LLC

DANIEL L. CANTOR
DANIEL S. SHAMAH
O'MELVENY & MYERS LLP
Times Square Tower
7 Times Square
New York, NY 10036

Counsel for Bank of America, N.A; Bank of America, N.A. / LaSalle Bank, N.A.; Bank of America Corporation; Bank of America; Bank of America Structured Research; Banc of America Securities LLC; Bank of America N.A./ GWIM Trust Operations; BNP Paribas Prime Brokerage Inc.; Columbia Management Group; Forrestal Funding Master Trust; LaSalle Bank, N.A.; Merrill Lynch, Pierce, Fenner & Smith Incorporated; Merrill Lynch, Pierce, Fenner & Smith as successor to Banc of America Securities LLC, Securities Lending Services; Merrill Lynch; Merrill Lynch & Co., Inc.; Merrill Lynch Capital Corp.; Merrill Lynch Financial Markets, Inc.; Merrill Lynch Trust Co.; Merrill Lynch, Pierce, Fenner & Smith, Inc. – Safekeeping; Merrill Lynch, Pierce, Fenner & Smith, Inc. – Securities Lending; 1IA SPX1; US Trust Co. N.A.; and U.S. Trust Company of Delaware

DAVID N. DUNN
PHILLIPS, DUNN, SHRIVER
& CARROLL, P.C.
147 Western Avenue
Brattleboro, VT 05301

Counsel for Ciri Gillespie, Cara-Leigh Gillespie-Wilson, John and Carol Jansson, Kirsten & John Gibbs, Walter Lang, Joel Marks, Steven and Susan Miller, Richard DeFoe, Kevin Domkowski, Richard & Lynda Freedman, Paul Gerken, Susan Gail Harwood Trust, Peter & Janice Howe, William H. Johnson, KWK Management, McConnell Foundation, Lili Charlotte Sarnoff, Spindle Limited Partnership, Maud P. Barton Revocable Trust, Cornelia Tobey, Richard Triest, Jerold Jay Wichtel, James & Eileen Wirth, Eileen S. Buckley, Willowlake Development, and Lu Ann Sodano

STEPHEN L. RATNER
DAVID A. PICON
RUSSELL T. GORKIN
PROSKAUER ROSE LLP
11 Times Square
New York, NY 10036

Counsel for 1199SEIU Health Care Employees Pension Fund; 1199SEIU Home Care Employees Fund; 1199SEIU Greater New York Pension Fund; A.G. Edwards & Sons, LLC; A.G. Edwards Private Equity Partners III, L.P.; A.G. Edwards, Inc.; AG Edwards & Sons, Inc.; Baldwin Enterprises LLC (formerly known as Baldwin Enterprises, Inc.); The Bank of New York Mellon Corporation Retirement Plans Master Trust; BNY Mellon Investment Servicing (US) Inc. (f/k/a PFPC, Inc.); BNY Mellon Trust of Delaware; BNY Mellon, N.A., as Successor-In-Interest to Mellon Trust of New England, N.A.; Cede & Co.; Evergreen Asset Management Corp.; First Clearing, LLC; Jefferies LLC (formerly known as Jefferies & Company, Inc. and which in 2011 merged with Jefferies Bache Securities, LLC, with Jefferies & Company, Inc. as the surviving entity); Mellon Bank N.A. Employees Benefit Collec-

tive Investment Plan; Mellon Bank, N.A. Employee Benefit Plan; Oppenheimer & Co., Inc.; Paper Products, Miscellaneous Chauffeurs, Warehousemen, Helpers, Messengers, Production and Office Workers Local 27 Pension Fund; Pershing LLC; Reed Elsevier U.S. Retirement Plan; Reliance Trust Company; Strategic Funds, Inc.; The Bank of New York Mellon; The Bank of New York Mellon as trustee of The Bank of New York Mellon Employee Benefit Collective Investment Fund Plan f/k/a Mellon Bank, N.A. Employee Benefit Collective Investment Fund Plan; The Bank of New York Mellon as trustee of The Collective Trust of The Bank of New York; The Bank of New York Mellon as trustee of the PG&E Nuclear Facilities Qualified CPUC Decommissioning Master Trust; The Bank of New York Mellon as trustee of the PG&E Postretirement Medical Plan Trust; The Bank of New York Mellon as trustee of the R.E. Ginna Nuclear Power Plant LLC Master Decommissioning Trust; The Depository Trust & Clearing Corporation; The Depository Trust Company; The Dreyfus Corporation; and Wachovia Bank, N.A.

DOUGLAS HALLWARD-DRIEMEIER
ROPES & GRAY LLP
2099 Pennsylvania Ave., NW
Washington, DC 20006-6807

Counsel for APG Asset Management US Inc. F/K/A ABP Investments US, Inc. (incorrectly named as ABP); Harvard University; Harvard Management Co.; President and Fellows of Harvard College; LPL Financial LLC; Marcia Tingley; Mutual of America Investment Corp.; Nora Morgenstern; Stichting Pensioenfonds van de ABN AMRO Bank N.V.; Stichting Pensioenfonds ABP; Stichting Pensioenfonds Hoogovens; Stichting Pensioenfonds Zorg En Welzijn; Sticht-

ing Shell Pensioenfonds; Tribune Company Master Retirement Savings Trust; Tribune Employee Stock Ownership Plan; Times Mirror Savings Plan; Tribune Company 401(k) Savings Plan; Trustees of Boston College; and Welch & Forbes LLC

GARY STEIN
WILLIAM H. GUSSMAN, JR.
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, NY 10022

Counsel for Adage Capital Advisors Long, Adage Capital Partners LP, Cougar Trading, LLC, Del Mar Master Fund, Ltd., DiMaio Ahmad Capital LLC, Emanuel E. Geduld 2005 Family Trust, GPC LX LLC, Gryphon Hidden Values VIII Ltd., Guggenheim Advisors, LLC, Guggenheim Portfolio Company XXXI, LLC, Guggenheim Portfolio LIX, LLC, Halcyon Asset Management LLC, Halcyon Diversified Fund LP, Halcyon Fund, LP, Halcyon Master Fund LP, Harvest AA Capital LP, Harvest Capital LP, Howard Berkowitz, Hudson Bay Fund LP, Hudson Bay Master Fund Ltd., Hussman Econometrics Advisors, Inc., Hussman Investment Trust, Hussman Strategic Growth Fund, John Splain, as Trustee of the Hussman Investment Trust, Lispenard Street Credit Fund LLP, Lispenard Street Credit Master Fund, Lispenard Street Credit Master Fund Ltd., Lockheed Martin Corporation, Lockheed Martin Corporation Master Retirement Trust, New Americans LLC, Pond View Credit (Master) LP, QVT Fund LP, Stark Global Opportunities Master Fund Ltd., Stark Investments, Stark Master Fund Ltd., Swiss Re Financial Products Corp., TOA Reinsurance Company of America, Towerview LLC, Twin Securities, Inc., and Wabash/Harvest Partners LP