

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL CASE NO. 3:09cv262

IN RE WACHOVIA CORPORATION)	
ERISA LITIGATION)	
)	
)	<u>ORDER</u>
)	
THIS DOCUMENT RELATES TO:)	
ALL ACTIONS)	
_____)	

THIS MATTER is before the Court on the Plaintiffs’ Motion for an Order Preliminarily Approving Settlement, Preliminarily Certifying the Settlement Class and Appointing Class Counsel and Liaison Counsel, Approving Form and Dissemination of Class Notice, and Setting a Date and Time for the Fairness Hearing [Doc. 152].

Presented to the District Court for preliminary approval is a settlement of the litigation. The terms of the Settlement are set out in the Class Action Settlement Agreement (“Settlement Agreement”) executed by counsel for the Parties on February 10, 2011.¹

On February 25, 2011, the Court held a hearing at which it preliminarily

¹Capitalized terms not otherwise defined in this Order shall have the same meaning ascribed to them in the Settlement Agreement. A copy of the Settlement Agreement is filed at Doc. 154-2.

considered the Settlement to determine, among other things, whether it warrants the issuance of notice to members of the Settlement Class. Upon reviewing Plaintiffs' Motion, and the Declaration of Derek W. Loeser and documents attached thereto, the Court hereby makes the following findings of fact and conclusions of law:

1. Class Certification. The Court preliminarily finds, for settlement purposes only, that the requirements of the United States Constitution, the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Western District of North Carolina, and any and all other applicable laws have been met as to the "Settlement Class" defined below, in that:
 - a. The Settlement Class is cohesive and well defined;
 - b. The members of the Settlement Class are reasonably ascertainable from records kept with respect to the Plans, and the members of the Settlement Class are so numerous that their joinder before the Court would be impracticable;
 - c. Based on allegations in the Complaint, there exist questions of fact and law common to the Settlement Class;
 - d. Based on allegations in the Complaint, the claims of the

Named Plaintiffs are typical of the claims of the Settlement Class;

- e. The Named Plaintiffs, by the nature of their claims, are in a position to fairly and adequately protect the interests of the Settlement Class in that: (i) the interests of Named Plaintiffs and the nature of their alleged claims are consistent with those of the members of the Settlement Class; (ii) there appear to be no conflicts between or among Named Plaintiffs and the Settlement Class; and (iii) Named Plaintiffs and the members of the Settlement Class are represented by qualified, reputable counsel who are experienced in preparing and prosecuting large, complicated ERISA class actions; and
- f. The Court further finds that: (i) the prosecution of separate actions by individual members of the Settlement Class would create a risk of (A) inconsistent or varying adjudications as to individual Settlement Class members that would establish incompatible standards of conduct for the parties opposing the claims asserted in the Action and

(B) adjudications as to individual Settlement Class members that as a practical matter, would be dispositive of the interests of the other Settlement Class members not parties to the adjudications or substantially impair or impede the ability of those persons to protect their interests; and (ii) Defendants have allegedly acted or refused to act on grounds that apply generally to the Settlement Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Settlement Class as a whole.

2. Preliminary Findings Concerning Proposed Settlement. The Court preliminarily finds that the proposed Settlement should be approved as: (i) the result of serious, extensive arm's-length and non-collusive negotiations; (ii) fair, reasonable, and adequate; (iii) having no obvious deficiencies; (iv) not improperly granting preferential treatment to the Named Plaintiffs or segments of the Settlement Class; (v) falling within the range of possible approval; (vi) not a prohibited transaction under ERISA or is exempt from ERISA's prohibited transaction provisions pursuant to applicable law or rules; and (vii) warranting notice to Settlement Class

members of a formal fairness hearing, at which evidence may be presented in support of and in opposition to the proposed Settlement.

3. Notices. A proposed form of Class Notice is attached hereto as Exhibit A. The Court finds that the form fairly and adequately: (i) describes the terms and effect of the Settlement Agreement and of the Settlement; (ii) notifies the Settlement Class concerning the proposed Plan of Allocation; (iii) notifies the Settlement Class that Class Counsel will seek Case Contribution Awards from the Qualified Settlement Fund in an amount not to exceed \$5,000 for each Named Plaintiff and for attorneys' fees not to exceed 25% of the Qualified Settlement Fund, plus reimbursement of expenses; (iv) gives notice to the Settlement Class of the time and place of the Fairness Hearing; and (v) describes how the recipients of the Class Notice may object to any of the relief requested.

Based on the foregoing findings of fact and conclusions of law, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

1. The Court preliminarily certifies the following class (the "Settlement Class") for settlement purposes only under Federal

Rule of Civil Procedure 23(b)(1) and (b)(2):

All persons other than Defendants who were participants in or beneficiaries of the Wachovia Savings Plan at any time between May 8, 2006 and December 31, 2008 and whose Plan account included units of investment in Wachovia Corporation common stock and/or participants in or beneficiaries of the A.G. Edwards, Inc. Retirement and Profit Sharing Plan at any time between October 1, 2007 and December 31, 2008 and whose Plan account included units of investment in Wachovia Corporation common stock.

2. The Court preliminarily appoints Named Plaintiffs David W. Allen, Robert M. Cominsky, Richard F. Dziak, Rose Hansen, Alan A. Hardman, Jerry R. Kelley, Jr., Denise A. Tuttle, and Todd A. Wright as class representatives for the Settlement Class and appoints Keller Rohrback L.L.P., Interim Lead Counsel, as Class Counsel and Wyatt & Blake, L.L.P., Interim Local Counsel, as Local Counsel for the Settlement Class.
3. Fairness Hearing. A hearing is scheduled for **August 25, 2011 at 9:00 am E.D.T.** in Asheville, North Carolina (the “Fairness Hearing”) to determine, among other things:
 - a. Whether the Settlement should be finally approved as fair, reasonable, and adequate;
 - b. Whether the Action should be dismissed with prejudice

pursuant to the terms of the Settlement Agreement;

- c. Whether the Class Notice and Internet/Publication Notice:
 - (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Fairness Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all Persons entitled to notice; and (iv) met all applicable requirements of the Federal Rules of Civil Procedure and any and all other applicable laws;
- d. Whether Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement;
- e. Whether the Plan of Allocation should be approved;
- f. Whether the application for attorneys' fees and expenses filed by Class Counsel should be approved; and

c. No later than seven (7) days before the Fairness Hearing, Class Counsel shall file with the Court a proof of timely compliance with the foregoing mailing and publication requirements.

5. Objections to Settlement. Any member of the Settlement Class who wishes to object to the fairness, reasonableness or adequacy of the Settlement, to the Plan of Allocation, to any term of the Settlement Agreement, to the proposed attorneys' fees and expenses, or to any request for Case Contribution Awards to Named Plaintiffs, may file an Objection. An objector must file with the Court a statement of his, her or its objections, specifying the reasons, if any, for each objection, including any legal support or evidence that the objector wishes to bring to the Court's attention. The objector also must mail the objection and all supporting law and evidence to Class Counsel and to Defendants' Counsel. The addresses for filing objections with the Court and service on counsel are as follows:

To the Court:

Clerk of the Court
United States District Court
for the Western District of North Carolina
U.S. Courthouse Building, 100 Otis Street
Asheville, NC 28801
Re: Case No. 3:09-CV-00262-MR

To Class Counsel:

Derek W. Loeser
Keller Rohrback L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052

To Defendants' Counsel:

Howard Shapiro
Proskauer Rose LLP
650 Poydras Street, Suite 1800
New Orleans, LA 70130

The objector or his, her or its counsel (if any) must have the objection postmarked no later than **July 25, 2011**, and must effect service of the objection on counsel listed above and file it with the Court so that it is received by counsel listed above and the Court no later than **August 18, 2011**. If an objector hires an attorney to object pursuant to this paragraph, the attorney's notice of appearance must be postmarked no later than **July 25, 2011**, and must be both served on counsel listed above and filed with the

Court by no later than **August 18, 2011**. Any member of the Settlement Class 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 Settlement, and any untimely objection shall be barred.

6. Appearance at Fairness Hearing. Any objector who files and serves a timely, written objection may appear at the Fairness Hearing either in person or through counsel retained at the objector's expense. Objectors or their attorneys intending to appear at the Fairness Hearing must effect service of a notice of intention to appear setting forth the name, address, and telephone number of the objector (and, if applicable, the name, address, and telephone number of the objector's attorney) on Class Counsel and on Defendants' Counsel (at the addresses set out above). The objector must mail the notice of intention to appear such that it is postmarked no later than **July 25, 2011**, and the notice of intention to appear must be served on counsel listed above such that it is received by counsel and filed with the Court no later than

August 18, 2011. Any objector who does not timely file and serve a notice of intention to appear in accordance with this paragraph shall not be permitted to appear at the Fairness Hearing, except for good cause shown.

7. Service of Papers. If it appears that any objections were not properly served, the Parties shall furnish each other's counsel with copies of any and all such objections that come into their possession promptly after learning of the deficiency in service.
8. Fee Petition. Class Counsel shall file an application for attorneys' fees and expenses no later than **July 12, 2011.**
9. Injunction. Pending the final determination of the fairness, reasonableness and adequacy of the proposed Settlement, all members of the Settlement Class are enjoined from instituting or commencing any action against Releasees based on the Released Claims, and all proceedings in this Action, except those related to approval of the Settlement, are stayed.
10. No Settlement Discovery. Except as provided in Section 3.4.1 of the Settlement Agreement with respect to a request for information and/or documents by the Independent Fiduciary, no

discovery by any person with regard to the Settlement or the Settlement Agreement shall be permitted as to any of the settling parties other than as may be directed by the Court upon a proper showing by the person seeking such discovery pursuant to a motion properly noticed and served.

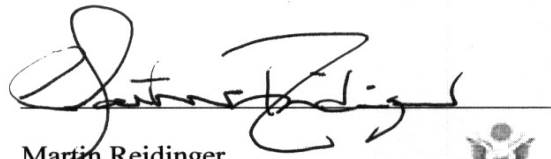
11. Termination of Settlement. In the event that the Settlement is terminated in accordance with the Settlement Agreement or does not receive final approval, the parties may move the Court to vacate this Order without prejudice to the rights of the Parties.
12. Use of Order. This Order is entered with the recognition that the Releasees specifically deny any liability or wrongdoing, and that the Plaintiffs specifically believe they would have a good chance of prevailing in the appeal and in the event of trial, but that they have settled this matter in recognition of the inherent uncertainty of litigation. Neither the fact nor the terms of this Order may be construed or used as an admission, concession, or declaration by or against Releasees of any fault, wrongdoing, breach, or liability or as a waiver by any Party of any arguments, defenses, or claims he, she, or it may have, including, but not limited to, any


objections by Releasees to class certification in the event that the Settlement Agreement is terminated or not given final approval.

13. Continuance of Hearing. The Court may in its discretion continue the Fairness Hearing without further written notice.

IT IS SO ORDERED.

Signed: March 2, 2011


Martin Reidinger
United States District Judge



UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

IN RE WACHOVIA CORPORATION ERISA
LITIGATION

MASTER FILE: 3:09-CV-00262-MR

THIS DOCUMENT RELATES TO:
All Actions

**NOTICE OF PROPOSED SETTLEMENT OF ERISA CLASS ACTION LITIGATION,
SETTLEMENT FAIRNESS HEARING, AND MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES
AND PROPOSED NAMED PLAINTIFFS' CASE CONTRIBUTION AWARDS**

Your legal rights might be affected if you:

Were a participant in or beneficiary of the: (a) Wachovia Savings Plan at any time between May 8, 2006 and December 31, 2008 and your individual Plan account included units of investment in Wachovia Corporation; and/or (b) A.G. Edwards, Inc. Retirement and Profit Sharing Plan at any time between October 1, 2007 and December 31, 2008 and your individual Plan account included units of investment in Wachovia Corporation common stock (the "Class Period"). All such participants and beneficiaries are referred to in this Notice as the "Settlement Class".

PLEASE READ THIS NOTICE CAREFULLY. A FEDERAL COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION. YOU HAVE NOT BEEN SUED.

This notice advises you of a proposed settlement of a class action lawsuit brought by David W. Allen, Robert M. Cominsky, Richard F. Dziak, Rose Hansen, Alan A. Hardman, Jerry R. Kelley, Jr., Denise A. Tuttle, and Todd A. Wright (collectively, "Named Plaintiffs") on behalf of themselves, the Plans (referred to above), and as representatives of the Settlement Class. Named Plaintiffs and Defendants are referred to as the "Parties." The lawsuit is referred to as the "Action." Other capitalized terms used in this notice and not defined in it have the meanings assigned to them in the Settlement Agreement.

The United States District Court for the Western District of North Carolina ("District Court") has preliminarily approved the Settlement and has scheduled a hearing to evaluate the fairness and adequacy of the Settlement. At the hearing, the Court will consider Named Plaintiffs' requests for final approval of the Settlement, for class certification, for approval of a proposed Plan of Allocation, for an award of attorneys' fees and costs, and for Case Contribution Awards to the Named Plaintiffs. The hearing has been scheduled for August 25, 2011, at 9:00 am E.D.T. in Courtroom 1, of the United States District Court for the Western District of North Carolina, U.S. Courthouse Building, 100 Otis Street, Asheville, NC 28801.

The terms of the Settlement are contained in the Class Action Settlement Agreement ("Settlement Agreement"), a copy of which is available at www.erisafraud.com and www.keller settlements.com, or by contacting Plaintiffs' Class Counsel: Derek W. Loeser, Keller Rohrback L.L.P., 1201 Third Avenue, Suite 3200, Seattle, WA 98101. You can also call a toll-free phone number, (800) 236-8134, if you have questions or comments. Plaintiffs' Class Counsel may also be contacted via email at info@wachoviaerisasettlement.com. Please do not contact the District Court or counsel for Defendants. They will not be able to answer your questions.

PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, THE SETTLEMENT WILL AFFECT YOUR RIGHTS. YOU ARE NOT BEING SUED. YOU DO NOT HAVE TO APPEAR IN COURT, AND YOU DO NOT HAVE TO HIRE AN ATTORNEY IN THIS CASE. IF YOU ARE IN FAVOR OF THE SETTLEMENT, YOU NEED NOT DO ANYTHING. IF YOU DISAPPROVE OF THE SETTLEMENT, YOU MAY OBJECT TO THE SETTLEMENT BY FOLLOWING THE PROCEDURES DESCRIBED BELOW.

ACTIONS YOU MAY TAKE IN THE SETTLEMENT

<p>NO ACTION IS NECESSARY TO RECEIVE PAYMENT.</p>	<p>If the Settlement is approved and you are a member of the Settlement Class, you do not need to do anything in order to receive a payment. Any money to be allocated to your account will be calculated as part of the implementation of the Settlement. <i>If you did not receive this Notice by mail and you believe you should have, please contact Plaintiffs' Class Counsel to ensure that your current address is entered into the database that will be used to distribute money from the Settlement.</i></p>
<p>YOU CAN OBJECT (objection must be postmarked by July 25, 2011, and received by the clerk of court and lawyers identified below no later than August 18, 2011).</p>	<p>If you wish to object to any part of the Settlement, you can write to the District Court and the lawyers identified below and explain why you do not like the Settlement.</p>
<p>YOU CAN GO TO THE HEARING ON August 25, 2011.</p>	<p>If you submit a written objection to the Settlement to the Court and the lawyers identified below before the Court-approved deadline, you may (but do not have to) attend the Court Hearing about the Settlement and present your objections to the Court. You may attend the Hearing even if you do not file a written objection, but you will only be allowed to speak at the Hearing if you file a written objection in advance of the Hearing.</p>

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This lawsuit alleges that certain Defendants breached fiduciary duties they owed to participants in the Wachovia Savings Plan and the A.G. Edwards, Inc. Retirement and Profit Sharing Plan (collectively, the “Plans”). A copy of some of the relevant documents filed with the District Court are available at www.erisafraud.com and www.kellersettlements.com.

SUMMARY OF SETTLEMENT

A Qualified Settlement Fund has been established consisting of \$12.35 million in cash paid by Defendants. The Class Settlement Amount, which will consist of the Settlement Fund minus certain amounts described in the Settlement Agreement, including District Court-approved attorneys’ fees and expenses and Case Contribution Awards, will be allocated among the Settlement Class in accordance with the Plan of Allocation to be approved by the District Court. (See Section 7 below for details about the Plan of Allocation.)

The Settlement Class consists of all persons other than Defendants who were participants in or beneficiaries of the Wachovia Savings Plan at any time between May 8, 2006 and December 31, 2008 and whose Plan account included units of investments in Wachovia Corporation common stock and/or participants in or beneficiaries of the A.G. Edwards, Inc. Retirement and Profit Sharing Plan at any time between October 1, 2007 and December 31, 2008 and whose Plan account included units of investment in Wachovia Corporation common stock.

As with any lawsuit, the Parties would face an uncertain outcome if the Action were not settled. Continued litigation of the Action could result in a verdict greater or less than the recovery under the Settlement Agreement, or in no recovery at all. This Action has been hotly contested from the outset. Named Plaintiffs and Defendants have disagreed about whether Defendants did anything wrong, and they do not agree on the amount that would be recoverable even if Plaintiffs were to win their appeal or at trial. Defendants, among other things: (1) have denied, and continue to deny, all allegations asserted in the Action; (2) have denied, and continue to deny, any wrongdoing or liability whatsoever; (3) believe that they acted at all times reasonably, prudently and lawfully with respect to the Plans, their participants and beneficiaries, and the Settlement Class; (4) would assert certain other defenses if the Settlement is not consummated; and (5) are entering into the Settlement solely to avoid the cost, disruption, and uncertainty of litigation.

Plaintiffs’ Class Counsel will ask the District Court for an order awarding them fees not in excess of 25% of the amount recovered in the Settlement, plus reimbursement of expenses. Named Plaintiffs will share in the allocation of the money paid to the Plans on the same basis and to the same extent as all other members of the Class, except that, in addition, Named Plaintiffs will apply to the Court for a Case Contribution Award of up to \$5,000 each. Any Case Contribution Award granted to Named Plaintiffs by the District Court will be payable from the proceeds of the Settlement.

BASIC INFORMATION

1. Why did I get this notice?

Either you or someone in your family may have been a participant in or beneficiary of the Plans and may have invested a portion of your Plan account in units of Wachovia common stock during the Class Period (between May 8, 2006 and December 31, 2008, for the Wachovia Savings Plan, and between October 1, 2007 and December 31, 2008 for the A.G. Edwards, Inc. Retirement and Profit Sharing Plan, all dates inclusive). The District Court has directed that this notice be sent to you because, as a potential member of the Settlement Class, you have a

right to know about the proposed Settlement before the District Court decides whether to approve it. If the District Court approves the Settlement, the Class Settlement Amount will be allocated among the Settlement Class according to a Plan of Allocation, and all Releasees will be released from all Released Claims, as set forth in the Settlement Agreement and summarized in Section 6 below.

This notice explains the Action, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how you may receive your portion of the benefits. The purpose of the notice is to inform you of a hearing (“Fairness Hearing”) to be held by the District Court to consider the fairness, reasonableness and adequacy of the proposed Settlement and to consider the application of Plaintiffs’ Class Counsel for attorneys’ fees and reimbursement of litigation expenses as well as an application for Case Contribution Awards to Named Plaintiffs.

The Fairness Hearing will be held at 9:00 am E.D.T. on August 25, 2011, before the Honorable Martin Reidinger in the United States District Court for the Western District of North Carolina, U.S. Courthouse Building, 100 Otis Street, Asheville, NC 28801, to determine:

- (a) Whether the Settlement should be approved as fair, reasonable, and adequate;
- (b) Whether the Action should be dismissed with prejudice pursuant to the terms of the Settlement;
- (c) Whether this notice and the way it was disseminated constituted proper notice and met all applicable legal requirements;
- (d) Whether the Settlement Class should be certified for the purposes of settlement only and whether Plaintiffs’ Class Counsel should be appointed as Class Counsel;
- (e) Whether the application for attorneys’ fees and expenses filed by Plaintiffs’ Class Counsel should be approved; and
- (f) Whether the application for Case Contribution Awards for Named Plaintiffs should be approved.

If the District Court approves the Settlement, payment to the Settlement Class will be made after all related appeals, if any, are favorably resolved. It is hard to tell whether such appeals will be favorably resolved, and resolving them can take time, perhaps more than a year. Please be patient.

2. What is the lawsuit about? What has happened so far?

Named Plaintiffs allege that Defendants were fiduciaries of the Plans and violated fiduciary duties under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) by allowing the Plans to invest in Wachovia Corporation (“Wachovia”) common stock when it was allegedly an unsuitable and imprudent investment for the Plans. Named Plaintiffs further allege that Defendants violated ERISA by failing to adequately monitor appointees, by failing to provide information pertinent to the Plans’ investment in Wachovia common stock to other fiduciaries, by failing to provide Plan participants with complete and accurate information about Wachovia common stock, by failing to monitor the performance of other fiduciaries or otherwise prevent or remedy breaches of duty by other fiduciaries, and by knowingly participating in the breaches. Plaintiffs sought to recover from Defendants losses to the Plans allegedly caused by those Defendants’ alleged misconduct. Plaintiffs sought to recover from Wells Fargo on the theory that it was the successor to Wachovia.

Defendants deny that they have any liability to the Plans or its participants or beneficiaries. If the Action were to continue, Defendants would continue to raise numerous defenses to liability, including the following:

- They were not fiduciaries of the Plans, or, if they were fiduciaries, their fiduciary duties did not extend to the matters at issue in the Action;
- To the extent they were fiduciaries as to the matters at issue in the Action, they complied with all fiduciary duties;
- Even if they failed to comply with one or more of their ERISA fiduciary duties, any breach of fiduciary duty did not cause the losses alleged by Named Plaintiffs; and
- The relief sought by Named Plaintiffs is not permitted under ERISA.

Plaintiffs’ Class Counsel have conducted an extensive investigation of Wachovia and of the alleged losses suffered by the Plans as a result of the breaches of fiduciary duty alleged in the Action. Through that investigation and through discovery of additional information in the Action, Plaintiffs’ Class Counsel have obtained documents and materials governing the Plans, Wachovia’s Securities and Exchange Commission filings, press releases, public statements, news articles and other publications. Class Counsel have reviewed and analyzed these materials and confirmed that the Settlement is fair, reasonable and adequate and in the best interest of the Settlement Class.

The District Court granted Defendants’ motion to dismiss the Complaint with prejudice. Plaintiffs filed an appeal of the District Court’s decision with the United States Court of Appeals for the Fourth Circuit.

This Settlement is the product of intensive, arm’s-length negotiations between Plaintiffs’ Class Counsel and Defendants’ Counsel, during which the terms of the Settlement were extensively debated and negotiated.

3. Why is this case a class action?

In a class action, one or more plaintiffs, called “named plaintiffs,” sue on behalf of people who have similar claims. All of the individuals on whose behalf named plaintiffs are suing are members of a “class” of certain participants and former participants in the Plans.

4. Why is there a Settlement?

In reaching the Settlement, the Parties have avoided the cost, time and risk associated with an appeal and a trial. As with any litigation, Named Plaintiffs would face an uncertain outcome if this Action proceeded, including the risk of losing at appeal or at trial. On the one hand, pursuing the case against Defendants could result in a verdict offering relief greater than this Settlement. On the other hand, continuing the case against Defendants could result in a verdict for less money than Named Plaintiffs have obtained in this Settlement, or even no recovery at all. Based on these risks and an evaluation of the particular risks presented by this case, Named Plaintiffs and Plaintiffs’ Class Counsel believe the Settlement is in the best interests of all Settlement Class members.

5. How do I know whether I am part of the Settlement Class?

The District Court has preliminarily certified this Action as a class action. The Settlement Class consists of all persons other than Defendants who were participants in or beneficiaries of the Wachovia Savings Plan at any time between May 8, 2006 and December 31, 2008 and whose Plan account included units of investments in Wachovia Corporation common stock and/or participants in or beneficiaries of the A.G. Edwards, Inc. Retirement and Profit Sharing Plan at any time between October 1, 2007 and December 31, 2008 and whose Plan account included units of investment in Wachovia Corporation common stock.

If you are a member of the Settlement Class, your share of the Class Settlement Amount, if any, will be determined by the District Court-approved Plan of Allocation, described in Section 7 below.

6. What does the Settlement provide?

The Settlement Agreement provides for the payment of \$12.35 million in cash, which was deposited into the Qualified Settlement Fund. The Class Settlement Amount (including interest, but after payment of certain amounts as described in the Settlement Agreement, including District Court-approved attorneys' fees, expenses, and Named Plaintiff Case Contribution Awards, taxes and other costs related to the administration of the Qualified Settlement Fund) will be paid to members of the Settlement Class according to a Plan of Allocation. Allocations will be made to Plan accounts of current participants in the Plans and made available to former participants pursuant to the Plan of Allocation. Disbursement of the Class Settlement Amount to the Settlement Class will occur after the Settlement has become Final.

In exchange for the settlement payment and other consideration, all Settlement Class members and anyone claiming through them will fully release all Releasees from all Released Claims, and will be barred from bringing any Released Claim against any Releasee. The specific Releasees are identified in the Settlement Agreement; generally they are Defendants and certain affiliated or otherwise related persons and entities. The Released Claims, also defined in the Settlement Agreement, generally include, subject to certain limitations set forth in the Settlement Agreement, all claims asserted in the Action, as well as any claims that could have been asserted in any forum by or on behalf of Settlement Class members which arise out of or are based on the allegations, transactions, facts, matters or occurrences, representations or omissions out of which the claims in the Action arise. This means that Settlement Class members will not have the right to sue the Releasees for any such claims if the settlement is approved. The Released Claims do not include the claims asserted in *In re Wachovia Equity Sec. Litig.*, No. 08-6171 (S.D.N.Y.); *In re Wachovia Preferred Sec. & Bond Notes Litig.*, No. 09-6351 (S.D.N.Y.); *Stichting Pensioenfond ABP v. Wachovia Corp., et al.*, No. 09-4473 (S.D.N.Y.); or *FC Holdings AB v. Wells Fargo & Company, et al.*, No. 09-5466 (S.D.N.Y.), which are separate lawsuits and which are not affected by this settlement. However, Settlement Class members shall not be entitled to recover more than 100% of their losses.

7. How much will I get?

On February 11, 2011, Class Counsel submitted a Plan of Allocation to the Court for approval at or after the Fairness Hearing. The Plan of Allocation, which may be obtained at www.erisafraud.com and www.keller settlements.com, or by contacting Class Counsel, describes how the Class Settlement Amount will be distributed to Settlement Class members. In general terms, the Plan of Allocation will provide that each Settlement Class member's share of the Class Settlement Amount will be calculated as follows:

The Class Settlement Amount will be distributed among Settlement Class members in proportion to their Net Losses. Each Settlement Class member's Net Loss will be the total of the member's units of Wachovia common stock Net Loss, which will be, for each Settlement Class member the result obtained by: (i) taking the dollar amount of the Settlement Class member's Plan account invested in units of Wachovia common stock at the beginning of the Class Period; (ii) adding the dollar amount added to the Settlement Class member's Plan account invested in units of Wachovia Common Stock during the Class Period; (iii) subtracting the dollar amount credited to the Settlement Class member's Plan account resulting from any and all dispositions (e.g., sales, withdrawals, loans, etc.) of units of Wachovia common stock during the Class Period; and (iv) subtracting the dollar amount of the Settlement Class member's Plan account balance in units of Wachovia common stock on December 31, 2008.

The Net Losses of the Settlement Class members will be added. Each Settlement Class member will be assigned a Net Loss Percentage, reflecting the percentage of the Settlement Class member's loss in relation to the losses incurred by all Settlement Class members. Each Settlement Class member's share of the Class Settlement Amount will be equal to the Class Settlement Amount multiplied by the Settlement Class member's Net Loss Percentage. This calculation will be called for each Settlement Class member the "Preliminary Dollar Recovery."

Defendants will perform all calculations and determine whether you are entitled to a share of the Class Settlement Amount and your share amount. Defendants will have access to all available records so you do not need to be concerned if you no longer have your Plan account statements. Defendants will identify all Settlement Class members whose Preliminary Dollar Recovery is less than \$25. These Settlement Class Members will not receive money from the Class Settlement Amount, and the recovery otherwise allocable to them will be reallocated among the other Settlement Class Members.

8. How can I get my portion of the recovery?

You do not need to file a claim. If you are a Settlement Class member entitled to a share of the Class Settlement Amount and you are a participant in either Plan, your share will be deposited in your Plan account. If you are a Settlement Class member entitled to a share of the Class Settlement Amount and you are not a participant in the Plan, your share will be made available to you as a tax qualified distribution. If you are a former participant and have not provided the Plan with your current address, please contact Plaintiffs' Class Counsel.

9. When can I expect to receive my payment?

Payment is conditioned on several things, including the District Court's approval of the Settlement and that approval becoming a Final Order and no longer subject to any appeals. Depending on the court process, distribution could take many months or more than a year; please be patient.

10. Can I exclude myself from the Settlement?

No. As a Settlement Class member, you will be bound by any judgments or orders that are entered in the Action for all claims that were asserted in the Action or otherwise included in the release under the Settlement. Although you cannot opt-out of the Settlement, you can object to the Settlement and ask the Court not to approve it. See Answer to Question No. 13, below.

The above description of the settlement is only a summary. The actual Settlement Agreement (including its exhibits) may be obtained at www.erisafraud.com and www.kellersettlements.com.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in the case?

Yes. The District Court has appointed the law firm of Keller Rohrback L.L.P. as Class Counsel for Named Plaintiffs, the Plans, and the Settlement Class. You will not be charged directly by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense. If you do hire your own attorney, the attorney must both effect service of a notice of appearance on counsel listed in the answer to Question 13 below and file it with the Court no later than August 18, 2011.

12. How will the lawyers be paid?

Plaintiffs' Class Counsel will apply for an award of attorneys' fees and expenses. The application for attorneys' fees will not exceed 25% of the Qualified Settlement Fund. Any award of fees and additional expenses will be paid from the Qualified Settlement Fund prior to allocation and payment to the Settlement Class. The written application for fees and expenses, together with the application for Case Contribution Awards to Named Plaintiffs, will be filed on July 12, 2011, and the District Court will consider this application at the Fairness Hearing. A copy of the application will be available at www.erisafraud.com and www.kellersettlements.com.

To date, neither Plaintiffs' Class Counsel nor any additional Plaintiffs' counsel has received any payment for their services in prosecuting this Action on behalf of the Settlement Class, nor has counsel been reimbursed for their out-of-pocket expenses. The fee requested by Plaintiffs' Class Counsel would compensate them for their efforts in achieving the Settlement for the benefit of the Settlement Class and for their risk in undertaking this representation on a contingent basis. The District Court will determine the actual amount of any award.

OBJECTING TO THE SETTLEMENT OR THE ATTORNEYS' FEES

13. How do I tell the District Court if I don't like the Settlement?

If you are a Class member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the District Court should not approve it. To object, you must send a letter or other paper saying that you object to the Settlement in *In Re Wachovia Corp. ERISA Litigation*, No. 3:09-CV-00262-MR. Be sure to include your name, address, telephone number, signature, and a full explanation of all reasons you object to the Settlement.

Your written objection must be postmarked no later than July 25, 2011, and received by the clerk of court and the lawyers listed below by August 18, 2011:

File with the Clerk of the Court:

United States District Court for the Western District of North Carolina
U.S. Courthouse Building, 100 Otis Street
Asheville, NC 28801
Re: 3:09-CV-00262-MR

And, by the same date, send copies of all such papers to each of the following:

PLAINTIFFS' CLASS COUNSEL:

Derek Loeser
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

COUNSEL FOR DEFENDANTS:

Howard Shapiro
PROSKAUER ROSE LLP
650 Poydras Street, Suite 1800
New Orleans, LA 70130

UNLESS OTHERWISE ORDERED BY THE DISTRICT COURT, ANY SETTLEMENT CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED ABOVE WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL BE FOREVER FORECLOSED FROM OBJECTING TO THE PROPOSED SETTLEMENT AND THE APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND CASE CONTRIBUTION AWARDS.

THE DISTRICT COURT'S FAIRNESS HEARING

14. When and where will the District Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at 9:00 am E.D.T. on August 25, 2011, at the United States District Court for the Western District of North Carolina, U.S. Courthouse Building, 100 Otis Street, Asheville, NC 28801.

IF YOU DO NOT WISH TO OBJECT TO THE PROPOSED SETTLEMENT OR THE APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND CASE CONTRIBUTION AWARDS, YOU DO NOT NEED TO ATTEND THE FAIRNESS HEARING.

At the hearing, the District Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the District Court will consider them. After the Fairness Hearing, the District Court will decide whether to approve the Settlement and certify the Settlement Class. The District Court will also consider the motions for attorneys' fees and expenses and Case Contribution Awards to Named Plaintiffs, as well as the proposed Plan of Allocation. We do not know how long these decisions will take.

15. Do I have to come to the hearing?

No, but you are welcome to come at your own expense. If you send an objection, you do not have to come to District Court to talk about it. As long as you mailed your written objection on time, it will be before the District Court when the District Court considers whether to approve the Settlement. You may also have your own lawyer attend the Fairness Hearing at your expense, but such attendance is not mandatory.

16. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter or other paper called a "Notice of Intention to Appear at Fairness Hearing in *In Re Wachovia Corp. ERISA Litigation*, No. 3:09-CV-00262-MR" to the attorneys listed in the Answer to Question No. 13 above, postmarked no later than July 25, 2011, and must be filed with the Clerk of the Court at the address listed in the Answer to Question No. 13 no later than August 18, 2011. Be sure to include your name, address, telephone number, and signature. Any objector who does not timely file and serve a notice of intention to appear in accordance with this paragraph shall not be permitted to appear at the Fairness Hearing, except for good cause shown.

The Fairness Hearing may be rescheduled by the District Court without further notice to the Class. If you plan to attend the Fairness Hearing, you should confirm the date and time with Class Counsel.

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing and you are a Settlement Class member, you will participate in the Settlement as described in this notice if the Settlement is approved, and you will be deemed to have released all Released Claims against all of the Releasees.

THE DISTRICT COURT EXPRESSES NO OPINION ABOUT THE MERITS OF THE ACTION

18. Is the District Court taking a position on this case?

No. By authorizing this notice to be sent to Settlement Class members, the District Court expresses no opinion on the merits of the parties' claims or defenses.

GETTING MORE INFORMATION

19. How do I get more information?

This notice summarizes the proposed Settlement. Full details about the settlement are in the Settlement Agreement. You may obtain a copy of the Settlement Agreement by making a written request to a member of Plaintiffs' Class Counsel listed above on Page 5. Copies of the Settlement Agreement, as well as the motion seeking preliminary approval of the Settlement Agreement and the Preliminary Approval Order, may also be viewed at www.erisafraud.com and www.kellersettlements.com.

Plaintiffs' Class Counsel have established a toll-free phone number to receive your comments and questions, (800) 236-8134, and may also be contacted via email at info@wachoviaerisasettlement.com.

DATED: _____, 2011.

By Order of the Court