

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BARCLAYS CAPITAL INC.; BARCLAYS  
GROUP US INC.; BARCLAYS US LLC;  
BARCLAYS BANK PLC; BARCLAYS PLC;  
BCAP LLC; SECURITIZED ASSET  
BACKED RECEIVABLES LLC; SUTTON  
FUNDING LLC; PAUL K. MENEFEE; and  
JOHN T. CARROLL,

Defendants.

No. 16-CV-7057 (KAM/JO)

**AGREEMENT FOR COMPROMISE SETTLEMENT AND RELEASE**

This Agreement (“Agreement”) is entered into between Plaintiff the United States of America (“United States”) on the one hand, and Defendants Barclays Capital Inc., Barclays Group US Inc., Barclays US LLC, Barclays Bank PLC, Barclays PLC, BCAP LLC, Securitized Asset Backed Receivables LLC, and Sutton Funding LLC (hereinafter, collectively, “Barclays”), together with Defendants Paul K. Menefee (“Menefee”) and John T. Carroll (“Carroll”) (collectively with Barclays, “Defendants”), on the other hand. The United States and Defendants are collectively referred to herein as “the Parties” to the above-captioned civil action (“this Action”).

**RECITALS**

A. On December 22, 2016, the United States commenced this Action against the Defendants by filing a Complaint to recover civil penalties from Defendants pursuant to the

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”), Pub. L. No. 101-73, 103 Stat. 498, tit. IX, § 951, *codified as amended at* 12 U.S.C. § 1833a.

B. The Complaint alleges that between December 1, 2005, and December 31, 2007 (the “Relevant Period”), Barclays engaged in violations of predicate offenses under FIRREA when it sponsored, issued, underwrote, managed, or offered 36 residential mortgage-backed securities (“RMBS”), which are identified in Table 1 annexed to the Complaint. The Complaint asserts claims for civil penalties under FIRREA against Barclays as to all 36 of these securitizations (“the Subject Deals”).

C. The Complaint also alleges that Menefee and Carroll, while employed by Barclays during the Relevant Period, engaged in violations of predicate offenses under FIRREA with respect to the seven Subject Deals identified in Table 2 annexed to the Complaint. The Complaint asserts claims for civil penalties under FIRREA against Menefee and Carroll individually as to these seven securitizations (“the Menefee/Carroll Deals”).

D. The United States filed an Amended Complaint in this Action on May 11, 2017.

E. Defendants have filed motions to dismiss the Amended Complaint, and the United States has opposed these motions. The motions to dismiss have not yet been adjudicated and are still pending before the Court.

F. “Covered Conduct” as used herein is defined as the conduct alleged in the Amended Complaint, as well as, more broadly:

- a. the creation, pooling, structuring, arranging, formation, packaging, marketing, underwriting, sale, or issuance by Barclays during the Relevant Period of the RMBS and related securities identified in Annex 1; and

- b. the representations, disclosures, or non-disclosures by Defendants in connection with the RMBS and related securities identified in Annex 1, where the representation, disclosure, or non-disclosure involves information about (or obtained during the origination, purchase, acquisition, securitization, underwriting, or servicing of) any residential mortgage loans included in the RMBS and related securities identified in Annex 1.

G. Covered Conduct does not include:

- a. conduct relating to the origination of residential mortgages, except for representations, disclosures, or non-disclosures by Defendants about the origination of such loans, or about information obtained in the course of originating such loans;
- b. conduct relating to the servicing of residential mortgage loans, except representations, disclosures, or non-disclosures by Defendants about the servicing of such loans, or about information obtained in the course of servicing such loans; or
- c. conduct relating to collateralized debt obligations and other derivative securities, or to the secondary trading of RMBS, as well as representations, disclosures, or non-disclosures made in connection therewith, except to the extent that such conduct, representations, disclosures, or non-disclosures relate to the RMBS and related securities listed in Annex 1.

H. All Parties desire to bring this matter to an expeditious and mutually acceptable resolution so as to avoid the delay, uncertainty, inconvenience, and expense of further litigation.

I. The Parties have therefore determined and decided to enter into this Agreement, in mutual consideration of the promises, covenants, and obligations set forth below.

J. This Agreement is made in compromise of disputed claims. The Parties acknowledge that this Agreement is made without any trial or adjudication or judicial finding of any issue of fact or law, and is not a final order of any court or governmental authority. This Agreement does not constitute an admission by any of the Defendants of any facts or liability or wrongdoing, including, but not limited to, any liability or wrongdoing with respect to any allegations that were or could have been raised in this Action. This Agreement also does not constitute a concession by the United States that its claims are not well-founded, and nothing in this Agreement should be construed as, or deemed to constitute, approval, sanction, or authorization by the United States of any of Defendants' actions or business practices, or of any event or action alleged in the Amended Complaint.

### **TERMS AND CONDITIONS**

1. **Payment.**

a. Barclays agrees to pay the amount of two billion dollars (US\$2,000,000,000) to resolve the claims against it brought in this Action.

b. Menefee and Carroll together agree to pay the combined amount of two million dollars (US\$2,000,000) to resolve the claims against them brought in this Action.

c. Within fifteen (15) business days of receiving written payment processing instructions from the United States Attorney's Office, Defendants shall pay the entire amounts set forth above in paragraphs 1.a and 1.b (totaling \$2,002,000,000, and known hereafter as the "Settlement Amount") by electronic funds transfer to the United States.

d. The entirety of the Settlement Amount is a civil monetary penalty recovered pursuant to FIRREA, 12 U.S.C. § 1833a.

e. Each Party shall bear its own legal and other costs, fees, and expenses incurred in connection with this matter, including those incurred in the preparation and performance of this Agreement.

2. **Voluntary Dismissal.** Within two (2) business days after the United States Attorney's Office confirms receipt of payment by Defendants of the full Settlement Amount, and in consideration of such payment, the Parties shall execute and file in the District Court for the Eastern District of New York a Stipulation of Voluntary Dismissal with Prejudice, in the form attached hereto as Exhibit A, which shall dismiss with prejudice all claims in this Action in their entirety against Defendants. However, the Stipulation and Protective Order entered by the Court on November 13, 2017 (ECF No. 105), as supplemented by the Rule 29 Stipulation the Parties entered on January 18, 2018, shall survive the dismissal of this Action to the extent necessary to govern the return or destruction of documents that the Parties or any non-Parties have designated as Confidential FIRREA Material or Confidential Information, and the Parties shall cooperate with each other to effectuate the terms of those Stipulations.

3. **Releases by the United States.** Subject to the exceptions set forth in Paragraph 4 ("Excluded Claims"), in consideration for and conditioned upon Defendants' full and timely payment of the Settlement Amount, and in further consideration for and conditioned upon the Cooperation described in Paragraph 7 ("Cooperation"), the United States fully and finally releases Barclays, each of its current and former parents, subsidiaries, and affiliates, and each of their respective successors and assigns, as well as Menefee and Carroll individually (collectively, the "Released Entities"), from all claims that were or could have been asserted by Plaintiff the United

States in this Action, as well as any other civil claim the United States has against the Released Entities for the Covered Conduct, where such civil claim arises under:

- a. FIRREA, 12 U.S.C. § 1833a;
- b. the False Claims Act, 31 U.S.C. §§ 3729, *et seq.*;
- c. the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801, *et seq.*;
- d. the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961, *et seq.*;
- e. the Injunctions Against Fraud Act, 18 U.S.C. § 1345;
- f. common law theories of negligence, gross negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud, and aiding and abetting any of the foregoing; and
- g. any other claim that the Civil Division of the Department of Justice has actual and present authority to assert and compromise pursuant to 28 CFR § 0.45(d).

4. **Reservations by the United States (Excluded Claims).** Notwithstanding the Releases by the United States set forth in Paragraph 3, and notwithstanding any other term of this Agreement, the United States specifically reserves, and does not release the Released Entities from, the following claims, regardless of the relationship of such claims to the Covered Conduct:

- a. any criminal liability;
- b. any liability of any person or entity other than the Released Entities;
- c. individual liability of any person except Menefee and Carroll;
- d. any liability arising under Title 26 of the United States Code (the Internal Revenue Code);

e. any administrative liability, including the suspension and debarment rights of any federal agency, establishment, instrumentality, or corporation; and

f. any liability based upon obligations created by this Agreement.

5. **Clarification of Excluded Claims.** For the avoidance of doubt, nothing in this Agreement shall be construed as suggesting that the United States Department of Justice has the authority to release, or by this Agreement is releasing:

a. any private right of action that entities other than the United States may have against the Released Entities, regardless whether such claims have been asserted or not; or

b. any liability to or claims of the Federal Deposit Insurance Corporation (“FDIC”) (in its capacity as a corporation, receiver, or conservator), National Credit Union Administration (in its capacity as a corporation, receiver, or conservator), Federal Housing Finance Agency, any of the Federal Home Loan Banks, the Federal Reserve Board and its member institutions, the Consumer Financial Protection Bureau, the Securities & Exchange Commission (“SEC”), or the Federal Trade Commission.

6. **Releases and Waivers by Defendants.**

a. The Released Entities hereby irrevocably release the United States, its agencies, establishments, and instrumentalities, together with their respective officers, officials, agents, employees, and servants, from any and all claims (including claims for attorney’s fees, costs, and expenses of every kind), however denominated, that the Released Entities have asserted, could have asserted, or may assert in the future against the United States, its agencies, establishments, instrumentalities, officers, officials, agents, employees, and servants, related to the Covered Conduct or related to the investigation and litigation thereof.

b. The Released Entities hereby irrevocably waive, and agree not to assert, any rights that they otherwise might have to seek any form of indemnification, reimbursement, or contribution from the FDIC in any capacity, including in its corporate capacity and its receiver and conservator capacities, for any payment that is a portion of the Settlement Amount.

c. The Released Entities hereby irrevocably waive and agree not to assert any defenses that they may have to any criminal prosecution or administrative action relating to the Covered Conduct as to which the defense is based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the United States Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the United States Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

d. The Released Entities hereby agree to separately determine and account for all Unallowable Costs for government contracting purposes, and not to charge any Unallowable Costs, directly or indirectly, to any contract that any of them may have with the United States, or with any agency, establishment, or instrumentality of the United States. For purposes of this provision, an “Unallowable Cost” is any cost (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of the Released Entities or any of their present and former officers, directors, employees, shareholders, and agents, in connection with: any matters covered by this Agreement; the negotiation and performance of this Agreement; the Settlement Amount payments made pursuant to this Agreement; the litigation and settlement of this Action, including any attorney’s fees and costs; the United States’ investigation of any matters covered by this Agreement; and the Released Entities’ investigation, defense, and corrective actions undertaken in response to the United States’ investigation and litigation of any matters covered by this Agreement.

7. **Cooperation.** Until the date upon which the United States concludes and completes all investigations and any prosecution or litigation relating to or arising out of the Covered Conduct, Defendants shall, subject to applicable laws or regulations:

a. cooperate fully with the Department of Justice (including the Federal Bureau of Investigation) and any other agency or person designated by the Department of Justice regarding matters relating to or arising out of the Covered Conduct;

b. assist the Department of Justice in any investigation or prosecution or litigation relating to or arising out of the Covered Conduct by providing logistical and technical support for any meeting, interview, deposition or other sworn testimony, grand jury proceeding, or any trial or other court proceeding;

c. use their best efforts to secure the attendance and truthful statements or testimony of any current or former officer, director, agent, or employee of the Released Entities at any meeting, interview, deposition or other sworn testimony, grand jury proceeding, or at any trial or other court proceeding regarding matters relating to or arising out of the Covered Conduct; and

d. provide the Department of Justice, upon request, all non-privileged information, documents, records, or other tangible evidence regarding matters relating to or arising out of the Covered Conduct about which the Department of Justice or any designated agency or designated person inquires.

8. **Miscellaneous Provisions.**

a. This Agreement is governed by, and shall be construed according to, the laws of the United States.

b. The Parties agree that the exclusive jurisdiction and venue for any dispute relating to this Agreement or its construction is the United States District Court for the Eastern

District of New York, and further agree to submit to the jurisdiction of that court (including personal jurisdiction) for any dispute relating to this Agreement or its construction or enforcement, as well as for any dispute relating to the Stipulation and Protective Order entered by the Court on November 13, 2017 (ECF No. 105).

c. This Agreement is intended for the benefit of the Parties only and does not create any third-party rights.

d. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below. Each Party and signatory to this Agreement represents that it/he/she freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

e. This Agreement shall be deemed to have been drafted by all Parties and shall not, therefore, be construed against any Party for that reason in any dispute.

f. This Agreement constitutes the complete and entire agreement between the Parties and may not be amended except by written consent of all of the Parties.

g. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

h. This Agreement is binding on Defendants' successors, transferees, heirs, and assigns.

9. **Disclosure.** All Parties agree that this Agreement may be made public in its entirety, and expressly consent to such release and disclosure.

10. **Effective Date.** This Agreement shall take effect on the date of signature of the last signatory to the Agreement.

For Plaintiff the United States of America:

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Dated: 3/28/18

Richard P. Donoghue  
RICHARD P. DONOGHUE  
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Brooklyn, NY 11201  
Phone: (718) 254-7000

Dated: 3/28/18

For Defendants Barclays Capital Inc., Barclays Group US Inc., Barclays US LLC, Barclays Bank PLC, Barclays PLC, BCAP LLC, Securitized Asset Backed Receivables LLC, and Sutton Funding LLC:



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ROBERT F. HOYT  
Group General Counsel  
Barclays  
One Churchill Place  
London, UK  
E14 5HP

Dated: 29 March 2018

For Defendant Paul Menefee:

  
PAUL K. MENEFEER

Dated: 3/29/18

For Defendant John Carroll.



JOHN T. CARROLL

Dated: March 29, 2015

## Annex 1

ACCR 2005-2  
ACCR 2005-3  
AHM 2006-1  
ALBT 2007-OA1  
ALBT 2007-OA1 NIM  
AMSI 2005-R10  
AMSI 2005-R8  
AQNIM 2005-R10A  
ARNIM 2005-WN3A  
ARNIM 2005-WN5  
ARNIM 2006-M3A  
ARSI 2005-W3  
ARSI 2005-W5  
ARSI 2006-M3  
ARSI 2006-W2  
ARSI 2006-W5  
BASIC 2006-1  
BCAP 2006-AA1  
BCAP 2006-AA2  
BCAP 2006-RR1  
BCAP 2007-AA1  
BCAP 2007-AA2  
BCAP 2007-AA3  
BCAP 2007-AA4  
BCAP 2007-AA5  
BCAPB 2007-AB1  
CARR 2006-FRE1  
CARR 2006-FRE2  
CARR 2006-NC2  
CARR 2006-NC4  
CARR 2007-RFC1  
CBASS 2005-CB1  
CBASS 2005-CB3  
CBASS 2005-CB5  
CBASS 2005-CB7  
CBASS 2006-CB1  
CBASS 2006-CB5  
CBASS 2007-CB2  
CBASS 2007-CB5  
CCMFC 2005-1A  
CCMFC 2005-2A  
CCMFC 2005-3A  
CCMFC 2005-4A  
CCMFC 2005-AA  
CCMFC 2005-BA  
CCMFC 2005-CA  
CCMFC 2006-1A  
CCMFC 2006-2A

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CCMFC 2006-3A  
CCMFC 2006-4A  
CCMFC 2007-1A  
CCMFC 2007-2A  
CWALT 2006-29T1  
CWALT 2006-42  
CWALT 2006-46  
CWHL 2006-9  
CWL 2005-13  
CWL 2005-AB3  
CWL 2006-11  
CWL 2006-22  
CWL 2006-3  
CWL 2007-10  
EQLS 2007-1  
EQLSN 2007-1A  
FFML 2005-FF1  
FFNT 2005-FF1  
FHLT 2005-B  
FHLT 2005-C  
FHLT 2005-D  
FHLT 2005-E  
FHLT 2006-A  
FHLT 2006-B  
FHLT 2006-C  
FHLT 2006-D  
FHLT 2006-E  
FRENT 2005-D  
FRENT 2006-B  
LUM 2006-4  
LUM 2006-6  
LUM 2006-7  
NCHET 2005-2  
NCHET 2005-3  
NCHET 2005-4  
NCHET 2006-1  
NCHET 2006-2  
OOMLT 2005-1  
OOMLT 2005-2  
OOMLT 2006-3  
OSARC 2005-1A  
OSARC 2006-1A  
PPSI 2005-WCW3  
PPSI 2005-WHQ1  
PPSI 2005-WHQ2  
PPSI 2005-WHQ3  
PPSIN 2005-WHQ3  
QUEST 2006-X2

## Annex 1

RAAC 2007-RP3  
RALI 2006-QS14  
RALI 2007-QS6  
RAMP 2005-EFC7  
RAMP 2006-RZ2  
RASC 2005-EMX4  
RASC 2006-EMX2  
RASC 2006-EMX5  
RASC 2006-EMX8  
RASC 2006-EMX9  
RASC 2006-KS8  
RASC 2006-KS9  
SABN 2005-EC1  
SABN 2005-FR1  
SABN 2005-FR2  
SABN 2005-FR3  
SABN 2005-FR4  
SABN 2005-FR5  
SABN 2005-HE1  
SABN 2005-OP1  
SABN 2005-OP2  
SABN 2006-FR1  
SABN 2006-FR2  
SABN 2006-FR3  
SABN 2006-FR4  
SABN 2006-HE1  
SABN 2006-HE2A  
SABN 2006-KS8  
SABN 2006-KS9  
SABN 2006-NC1  
SABN 2006-NC2  
SABN 2006-NC3  
SABN 2006-OP1  
SABN 2006-WF3  
SABN 2006-WM1  
SABN 2006-WM2  
SABN 2006-WM3  
SABN 2006-WM4  
SABN 2007-BR1  
SABN 2007-BR2  
SABN 2007-BR3  
SABN 2007-BR4  
SABN 2007-BR5  
SABN 2007-HE1  
SABN 2007-NC1A  
SABN 2007-NC2A  
SABN 2007-WF1A  
SABR 2005-EC1

## Annex 1

SABR 2005-FR1  
SABR 2005-FR2  
SABR 2005-FR3  
SABR 2005-FR4  
SABR 2005-FR5  
SABR 2005-HE1  
SABR 2005-OP1  
SABR 2005-OP2  
SABR 2006-FR1  
SABR 2006-FR2  
SABR 2006-FR3  
SABR 2006-FR4  
SABR 2006-HE1  
SABR 2006-HE2  
SABR 2006-NC1  
SABR 2006-NC2  
SABR 2006-NC3  
SABR 2006-OP1  
SABR 2006-WM1  
SABR 2006-WM2  
SABR 2006-WM3  
SABR 2006-WM4  
SABR 2007-BR1  
SABR 2007-BR2  
SABR 2007-BR3  
SABR 2007-BR4  
SABR 2007-BR5  
SABR 2007-HE1  
SABR 2007-NC1  
SABR 2007-NC2  
SARNT 2005-A  
SFS 2005-B  
TRUMN 2005-1  
TRUMN 2006-1  
WFHET 2006-3  
WFHET 2007-1  
WFMBS 2006-16  
WFMBS 2006-5  
WFMBS 2007-12  
WFMBS 2007-17

\* Should a securitization inadvertently not be listed notwithstanding that Barclays or one of its subsidiaries or affiliates served as issuer, sponsor, depositor, underwriter, or originator, that securitization will be treated as if it was listed.

# **Exhibit A**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BARCLAYS CAPITAL INC.; BARCLAYS  
GROUP US INC.; BARCLAYS US LLC;  
BARCLAYS BANK PLC; BARCLAYS  
PLC; BCAP LLC; SECURITIZED ASSET  
BACKED RECEIVABLES LLC; SUTTON  
FUNDING LLC; PAUL K. MENEFEE; and  
JOHN T. CARROLL,

Defendants.

No. 16-CV-7057 (KAM/JO)

**NOTICE AND STIPULATION OF DISMISSAL WITH PREJUDICE**

WHEREAS Plaintiff the United States of America and Defendants Barclays Capital Inc., Barclays Group US Inc., Barclays US LLC, Barclays Bank PLC, Barclays PLC, BCAP LLC, Securitized Asset Backed Receivables LLC, Sutton Funding LLC, Paul K. Menefee, and John T. Carroll have entered into an Agreement for Compromise Settlement and Release, disposing of all claims asserted in the above-captioned action (the “Action”);

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the parties, through their respective undersigned counsel, that, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), this Action shall be, and hereby is, dismissed with prejudice, each party to bear its own costs, attorneys’ fees, and expenses. The Stipulation and Protective Order entered by the Court on November 13, 2017 (ECF No. 105), shall survive the dismissal of the Action to the extent necessary to govern the return or destruction of documents that the Parties or any non-Parties have designated as Confidential FIRREA Material or Confidential Information, and the Parties shall

cooperate with each other to effectuate the terms of that Stipulation. This Court shall retain jurisdiction to the extent necessary to adjudicate any dispute relating to the Agreement for Compromise Settlement and Release or its construction or enforcement and any dispute relating to the Stipulation and Protective Order entered by the Court on November 13, 2017 (ECF No. 105).

Dated: Brooklyn, New York  
[] [], 2018

RICHARD P. DONOGHUE  
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EASTERN DISTRICT OF NEW YORK

By: \_\_\_\_\_  
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*Counsel for Plaintiff the United States of America*

Dated: New York, New York  
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Dated: New York, New York  
[] [], 2018

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*Counsel for Paul K. Menefee*

Dated: New York, New York  
[] [], 2018

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