

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

Thomas L. Logue, on behalf of himself )  
and others similarly situated, )  
)  
Plaintiff, )

v. )

Case No.: 2:10-cv-451

West Penn Multi-List, Inc.; Barbara Kohl; )  
Howard Hanna Company d/b/a Howard )  
Hanna Real Estate Services; Helen Hanna )  
Casey; NRT Pittsburgh LLC d/b/a Coldwell )  
Banker Real Estate Services; )  
George Hackett; Robert P. Freeman d/b/a )  
Freeman Realty; Everest Consulting Group )  
LP d/b/a Northwood Realty Services; )  
Thomas Hosack; PPR Realty, Inc. d/b/a )  
Prudential Preferred Realty; and Ronald )  
Croushore, )  
)  
Defendants. )

*Electronically Filed*

Judge: Hon. Arthur J. Schwab

**STIPULATION OF SETTLEMENT**

Subject to the approval of the Court, this Stipulation of Settlement (hereinafter the “Settlement Agreement” or “this settlement”) is entered into between (a) Plaintiff Thomas Logue, on behalf of himself and the members of the proposed Class, and (b) Defendants West Penn Multi-List, Inc.; Howard Hanna Company d/b/a Howard Hanna Real Estate Services; Helen Hanna Casey; NRT Pittsburgh LLC d/b/a Coldwell Banker Real Estate Services; George Hackett; Robert P. Freeman d/b/a Freeman Realty; Everest Consulting Group LP d/b/a Northwood Realty Services; Thomas Hosack; PPR Realty, Inc. d/b/a Prudential Preferred Realty; and Ronald Croushore (the “Settling Defendants”), as follows:

## I. **BACKGROUND**

A. **The Lawsuit.** A purported class action lawsuit entitled *Logue v. West Penn Multi-List, Inc., et al.*, No. 2:10-cv-451 (W.D. Pa.)(AJS) is presently pending in the District Court for the Western District of Pennsylvania. In the Lawsuit, Plaintiff Logue contends, among other things, that defendants (the West Penn Multi-List (“WPML”), members of the WPML Board of Directors and the brokerage companies they own, operate, and/or represent) violated §1 of the Sherman Act when they conspired to create rules regulating listings on the WPML that allegedly discriminated against lower cost competition from innovative discount brokers. Plaintiff further alleged that such practices had the effect of maintaining commission rates in the WPML service area at supracompetitive levels. Defendants deny these allegations, contending they never discriminated against or banned lower priced or innovative brokers from operating in the WPML service area, from joining the WPML, or from enjoying any of the benefits of WPML membership. Defendants further deny that they have any liability to Plaintiff Logue or the proposed Class.

B. **Preparation by Plaintiffs’ Counsel for Settlement.** Before commencing the Lawsuit and throughout its pendency (including during settlement negotiations), Plaintiff’s Counsel and their professional consultants have satisfied themselves that they have conducted a thorough examination and evaluation of the relevant law and facts to assess the merits of their claims and potential claims and to determine how best to serve the interests of Plaintiff Logue and the proposed Class. In the course of their examination, Plaintiff’s Counsel (1) reviewed thousands of pages of documents, including the details of tens of thousands of real estate transactions in the WPML service area, (2) compelled the production of additional data regarding thousands more real estate transactions, (3) conducted an extensive search and review of other

studies, reports and documents relating to similar allegations of anticompetitive conduct in real estate markets across the country, (4) retained a well credentialed and experienced economist who, after rigorous analysis of market data and industry characteristics, including Defendants' data regarding tens of thousands of real estate transactions, prepared an expert report in support of class certification, (5) deposed Defendants' class certification expert and (6) completed motion papers and briefing seeking class certification.

C. **Agreement to Settle.** Plaintiff and Defendants have agreed to settle the Lawsuit under the terms and conditions set forth herein. It is understood and acknowledged that Defendants have denied, and continue to deny, any liability, wrongdoing, and damages with respect to the matters alleged in the Lawsuit, and that this Settlement Agreement is entered into as a compromise of disputed claims and for the purpose of avoiding the uncertainty, costs and delay of litigation. This Settlement Agreement and the settlement fund it creates are not and shall not be construed as an admission of liability, wrongdoing, or damages by Defendants, nor as evidence of the validity of any of the allegations made or claims asserted against Defendants. Further, this Settlement Agreement shall not be used for any other purpose, in this proceeding or any other proceeding, in this Court or in or before any judicial or administrative tribunal, other than for the enforcement of the Settlement Agreement.

Based upon their discovery, investigation and evaluation of the facts and law relating to the matters alleged in the pleadings, Plaintiff and his Counsel have agreed to settle the Lawsuit pursuant to the provisions of this Settlement Agreement after considering, among other things: (1) the substantial benefits available to Plaintiff and the Class under the terms of this Settlement Agreement; (2) the risks and uncertainty of litigation, especially in complex actions such as this, as well as the difficulties and delays inherent in such litigation; (3) the likelihood that any

judgment against West Penn Multilist, Inc. would result in it ceasing to do business due to its inability to pay a judgment; and (4) the desirability of consummating this Settlement Agreement promptly to provide effective relief to Plaintiff and the Class. Based on these considerations and their due diligence, Plaintiff and his Counsel believe that this Settlement Agreement is fair, reasonable and adequate because it provides meaningful benefits to the Class, is in the best interests of the Class, and fairly resolves all the claims alleged in the Lawsuit.

## **II. DEFINITIONS**

In addition to certain terms defined elsewhere in this Settlement Agreement, the following defined terms are used herein:

**A. Attorneys' Fees and Expenses.** The term "Attorneys' Fees and Expenses" shall mean such funds as may be awarded to Plaintiff's Counsel to compensate them (and all other attorneys for Plaintiff or Class Members in this action, except for attorneys retained by individual Class Members or potential Class Members who exclude themselves from the Class) for their reasonable and necessary fees and expenses in connection with the Lawsuit.

**B. Class.** The "Class" for purposes of this settlement is defined as:

All individuals or businesses that purchased the brokerage defendants' real-estate brokerage services in the West Penn MLS Service Area from February 13, 2005 through February 13, 2009.

Excluded from the Class are any present or former officers, directors, agents, and/or employees of the Defendants and/or any person who makes a timely election to be excluded from the proposed Class.

**C. Class Member or Members.** The terms "Class Member" or "Class Members" shall mean members of the proposed Class who do not make a timely election to be excluded from the proposed Class.

**D. Amended Complaint.** The term “Amended Complaint” shall mean the Amended Complaint filed by Plaintiff in this Lawsuit on October 4, 2010.

**E. Court.** The term “Court” shall mean the District Court for the Western District of Pennsylvania, which is the court in which the Lawsuit is pending.

**F. Defendants’ Counsel.** The term “Defendants’ Counsel” shall refer to the law firms of Buchanan Ingersoll & Rooney PC, Metz Lewis Brodman Must O’Keefe LLC, and Brandt Milnes & Rea, P.C.

**G. Final Order and Judgment.** The term “Final Order and Judgment” shall mean (i) the Order of the Court finally approving this Settlement Agreement and (ii) the corresponding Final Judgment, substantially in the form and substance as Exhibits 3 and 4.

**H. Final Settlement Date.** The term “Final Settlement Date” shall refer to the date upon which the Court's Final Order and Judgment becomes “final.” For purposes of this Settlement Agreement, the Final Judgment and Order shall become “final”:

1. If no appeal is taken therefrom, then on the first day after the date on which the time to appeal the judgment expires;
2. If an appeal is taken therefrom, then on the first day after the date on which all appeals, including petitions for re-hearing or re-argument, petitions for re-hearing en banc, petitions for review, petitions for allowance of appeal, and petitions for *certiorari* or any other form of review, have been finally disposed in a manner affirming the Final Judgment and Order; or
3. On a date after the entry of the Final Judgment and Order to which counsel for the Settling Parties mutually agree in writing.

I. **Lawsuit.** “Lawsuit” shall mean the lawsuit entitled *Logue v. West Penn Multi-List, Inc., et al.*, No. 2:10-cv-451 (W.D. Pa.)(AJS).

J. **Lead Counsel.** “Lead Counsel” shall refer to the law firm of Goldman Scarlato & Karon, P.C.

K. **Plaintiff’s Counsel.** “Plaintiff’s Counsel” shall refer to Lead Counsel as well as Specter Specter Evans & Manogue, P.C. and Reinhardt Wendorf & Blanchfield.

L. **Plaintiff.** “Plaintiff” shall mean Thomas Logue, individually and as representative of the Class.

M. **Preliminary Approval Order.** “Preliminary Approval Order” shall have the meaning set forth in Section VI. A below, and it shall be substantially in the form and substance of Exhibit 1.

N. **Release.** The “Release” shall refer to the release and covenant not to sue set forth in Section IV. below.

O. **Released Defendants.** The “Released Defendants” shall be (i) West Penn Multi-List, Inc.; Howard Hanna Company d/b/a Howard Hanna Real Estate Services; Helen Hanna Casey; NRT Pittsburgh LLC d/b/a Coldwell Banker Real Estate Services; George Hackett; Robert P. Freeman d/b/a Freeman Realty; Everest Consulting Group LP d/b/a/ Northwood Realty Services; Thomas Hosack; PPR Realty, Inc. d/b/a Prudential Preferred Realty; and Ronald Croushore (ii) any successors, parents, subsidiaries, insurers, attorneys, or affiliates of these entities; (iii) any past, present or future officers, directors, employees, agents, brokers, representatives, shareholders, corporate parents, subsidiaries, or affiliates of any of the foregoing; and (iv) any predecessors, successors, assigns, or persons acting on behalf of any of the foregoing.

**P. Released Claims and Transactions.** “Released Claims and Transactions” shall have the meaning set forth in Section IV. A. below.

**Q. Settlement Agreement.** “Settlement Agreement” shall refer to this Agreement and the attached exhibits, which are an integral part of the Settlement Agreement and are incorporated herein in their entirety by reference.

**R. Settlement Class Notice.** “Settlement Class Notice” shall mean the legal notice, to be approved by the Court and provided to potential Class Members as described in Section VI. A. below. It shall be substantially in the form and substance of Exhibit 2 hereto.

**S. Settling Parties.** “Settling Parties” shall mean (a) Plaintiff Thomas Logue and (b) Defendants West Penn Multi-List, Inc.; Howard Hanna Company d/b/a Howard Hanna Real Estate Services; Helen Hanna Casey; NRT Pittsburgh LLC d/b/a Coldwell Banker Real Estate Services; George Hackett; Robert P. Freeman d/b/a Freeman Realty; Everest Consulting Group LP d/b/a/ Northwood Realty Services; Thomas Hosack; PPR Realty, Inc. d/b/a Prudential Preferred Realty; and Ronald Croushore.

**T. Claims Administration.** “Claims Administration” shall mean providing the notice and claim form, analyzing data produced in this Lawsuit for purposes of providing the notice and claim form, creating and maintaining reasonably necessary computer databases, processing claim forms and opt outs, handling inquiries from class members, preparing and providing reports upon reasonable request of Plaintiff's or Defendants' Counsel, filing of all information and other tax returns necessary to report any taxable and/or net taxable income earned by the Settlement Amount, and any other reasonably necessary administrative actions.

### **III. RELIEF FOR THE CLASS**

**A. Settlement Amount:**

Defendants shall pay US \$2,375,000.00, all cash, for the benefit of the members of Class including to cover the fees and expenses incurred by Plaintiff's Counsel in the course of this litigation.

**B. Deposit of Settlement Amount:**

Defendants shall cause \$75,000.00 of the Settlement Amount to be deposited into an interest-bearing escrow account (Account A) within five (5) business days of the Court's entry of the Preliminary Approval Order. Account A will be established at First Priority Bank and the account shall be within Lead Counsel's sole control. Prior to entry of the Final Order and Judgment, Lead Counsel shall use the funds from Account A only to pay costs and expenses reasonably and actually incurred in connection with providing notice to the Class, soliciting Class Members' claims, assisting with claims filing, processing claim and release forms and paying escrow fees and costs, if any. In the event the costs of notice and administration incurred prior to entry of the Final Order and Judgment exceed the initially deposited \$75,000, Lead Counsel will request additional funds to be paid from the Settlement Amount, but in no event shall such payment be made, if at all, prior to the Final Settlement Date.

Defendants shall cause the balance of the Settlement Amount (i.e., the remaining \$2,300,000.00) to be deposited into a separate account (Account B) within five (5) business days of entry of the Preliminary Approval Order. Account B is an existing trust account maintained by Metz Lewis Brodman Must O'Keefe LLC and the account shall be within Metz Lewis Brodman Must O'Keefe LLC's sole control.

Within 48 hours of entry of the Final Order and Judgment, Metz Lewis Brodman Must O'Keefe LLC shall cause the \$2,300,000.00 in Account B to be deposited into Account A.



C. **Plan of Allocation and Cy Pres Charities**

All Class Members that submit valid claim forms will share in the settlement fund. Once the total number of valid claim forms is received and validated by the Claims Administrator and the balance of the settlement fund is determined after paying the approved costs of litigation, notice, claims administration, and attorney's fees, the administrator will determine the pro rata share of the settlement fund to which each claimant is entitled, based on the commission paid by each claimant, but in no event shall any claimant's award exceed 10% of the commissions paid by the claimant. Any portion of the settlement fund that remains after the submitted claims have been administered will be distributed to the following charity:

Habitat for Humanity of Greater Pittsburgh  
1 Library Pl Ste 107  
Duquesne, PA 15110-1155

D. **Not a Claims-Made Settlement:**

This is not a claims made settlement. There will be no reversion of any remaining settlement funds.

IV. **RELEASE OF CLAIMS AND TRANSACTIONS AND RELATED COVENANTS**

A. **Release of Claims Against the Released Defendants.** Effective upon the Final Settlement Date, Plaintiff and all Class Members do hereby release, acquit, and forever discharge the Released Defendants from the Released Claims and Transactions, and Plaintiff and all Class Members agree not to institute, maintain, or assert any claims against the Released Defendants based on the Released Claims and Transactions. The term "Released Claims and Transactions" shall mean any and all causes of action, claims, demands, liabilities, damages (compensatory, punitive or otherwise), equitable relief, legal relief, rights, and/or suits, of whatever nature or kind, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or

contingent, or based on any statute, regulation or common law of any country, state, province, county, city or municipality, that have been, could have been, or may be alleged or asserted, now or in the future, by Plaintiff or any Class Member against the Released Defendants (or any of them), whether in the Lawsuit, or in any other action or proceeding in or before any court, administrative body, tribunal, arbitrator, arbitration panel or any other forum, on the basis of, connected with, arising out of, or related, in whole or in part, to:

1. any or all of the acts, omissions, facts, matters, or representations that were alleged, asserted, described, set forth, related or referred to in the Lawsuit; and/or

2. any or all acts, omissions, facts, matters, transactions, occurrences or representations relating to the matters covered by this Settlement Agreement.

Nothing in this release should be construed to release existing or future claims between Plaintiff or any Class Member and any Released Defendant(s) that do not arise out of or relate to the Released Claims and Transactions.

**B. Release of Claims Against Plaintiff, Plaintiff's Counsel and the Class**

Effective upon the Final Settlement Date, the Released Defendants and the other Released Parties will release as against Plaintiff Thomas Logue, Plaintiff's Counsel, and any other Class Member, and all of their respective related or affiliated persons or entities of all claims and causes of action of every nature and description, whether known or unknown, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of this action or any of the claims that were asserted therein, except for claims relating to the enforcement of the Settlement.

Effective upon the Final Settlement Date, Plaintiff Thomas Logue, Plaintiff's Counsel, and any other Class Member will release as against the Released Defendants, Defendants' Counsel, and all of their respective related or affiliated persons or entities of all claims and causes of action of every nature and description, whether known or unknown, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the defense or settlement of this action or any of the claims that were asserted therein, except for claims relating to the enforcement of the Settlement.

Furthermore, no person shall have any claim against Class Counsel, any claims administrator, Defendants or Defendants' Counsel based on distributions made substantially in accordance with the Settlement Agreement, the Plan of Allocation, or further Court Orders.

**C. Enforcement of Settlement Agreement and Policies.** Nothing in the Release contained herein shall preclude any action to enforce the terms of this Settlement Agreement or the Final Order and Judgment.

**V. ATTORNEYS' FEES AND EXPENSES, AND INCENTIVE AWARD.**

**A.** Neither the Released Defendants nor any other Released Party shall take a position with respect to Plaintiff's Counsel's request for attorneys' fees and expenses. Plaintiff's Counsel's attorneys' fees and expenses, as may be awarded by the Court, shall be paid from Account A within 48 hours of entry of the Final Order and Judgment, notwithstanding any objections or appeals. If, however, the Final Order and Judgment is not affirmed on appeal or the Settlement is not approved, such fees and expenses will be repaid, with interest from the date of payment at the same rate as would have been earned had the funds remained in Account A.

**B.** Plaintiff Thomas Logue also intends to request that the Court approve an incentive award for his representation of the Class in this Lawsuit, not to exceed \$10,000.00.

Neither the Released Defendants nor any other Released Party shall take a position with respect to Plaintiff's request for an incentive award.

VI. **CERTIFICATION NOTICE AND APPROVAL**

A. **Preliminary Approval, Certification, and Notice.** Within five (5) days after the execution of this Settlement Agreement, Plaintiff and Lead Counsel will apply to the Court for an Order substantially in the form and substance of Exhibit 1 (the "Preliminary Approval Order") that will, among other things:

1. Preliminarily approve this Settlement Agreement as sufficiently fair and reasonable to warrant sending notice to the Class;

2. Preliminarily certify the Class, as defined herein, and designating Plaintiff as the Class representative and Lead Counsel as Counsel for the Class, on the condition that the certification and designations shall be automatically vacated if this Settlement Agreement is terminated or is disapproved in whole or in part by the Court, any appellate Court, or any of the Settling Parties (pursuant to Section VII below), in which event this Settlement Agreement, its contents, and/or the fact that it was entered into shall not be used, offered, received or construed as an admission or as evidence for any purpose, including but not limited to the propriety of certifying any class;

3. Stay consideration of all other motions and deadlines pending in the Lawsuit;

4. Schedule the Fairness Hearing, to be held no sooner than ninety (90) days after entry of the Preliminary Approval Order, to consider the

fairness, reasonableness and adequacy of this Settlement Agreement and whether it should be approved by the Court;

5. Approve the Settlement Class Notice substantially in the form and substance of Exhibit 2 hereto;

6. Direct Plaintiff to cause the Settlement Class Notice to be delivered to the last known addresses of all known potential Class Members, as derived from the current computer records of Defendants in their ordinary course of business and supplemented by a skip-trace process;

7. Determine that the Settlement Class Notice constitutes the most effective notice practicable of the pendency of the Lawsuit, this Settlement Agreement and the Fairness Hearing to all potential Class Members who can be identified through reasonable effort, and constitutes due and sufficient notice for all other purposes to all Persons entitled to receive notice;

8. Require each potential Class Member who wishes to exclude himself or herself from the Class to send to Lead Counsel or its Claims Administrator *and* the Court, an appropriate written request for exclusion postmarked no later than 15 days before the date of the Fairness Hearing;

9. Rule that any potential Class Member who does not submit a timely, written request for exclusion will be bound by all proceedings, orders and judgments in the Lawsuit, which will have preclusive effect in all pending or future lawsuits or other proceedings in all jurisdictions, except that Defendants, in their sole discretion, may allow a potential Class Member who does not timely

request exclusion from the Class to opt out of the Class up to and including the date of the Fairness Hearing;

10. Require each Class Member who wishes to appear through separate counsel and/or to address or object to the fairness, reasonableness or adequacy of this Settlement Agreement to serve on Lead Counsel and to file with the Court, no later than 15 days before the Fairness Hearing, a notice of intention to appear and/or object, together with copies of any papers the Class Member intends to present to the Court in connection with this Settlement Agreement, or be forever barred from separately appearing and/or objecting;

11. Directing Lead Counsel to promptly furnish Defendants' Counsel with copies of all objections, written requests for exclusion, intentions to appear, and other documents received from Class Members; and

12. Contain any additional provisions that might be necessary to implement and administer the Settlement Agreement.

**B. Re-delivering and Additional Notice.** Lead Counsel or its Claims Administrator shall:

1. Re-deliver any Settlement Class Notice that is returned by the postal service with a forwarding address; and

2. Use reasonable efforts to attempt to find an address for any returned Settlement Class Notice that does not include a forwarding address or retain an address research firm for this purpose; and

3. If an updated address is found, re-deliver once any returned Settlement Class Notices to the updated address as soon as practical following

receipt of the updated address. Lead Counsel and its Claims Administrator shall not be obligated to duplicate the efforts of any address research firm.

**C. Costs of Notice and Claims Administration.** Upon entry of the Court's Preliminary Approval Order, Lead Counsel may pay from Account A the actual costs of notice and claims administration without further order of the Court up to \$75,000.00. In the event that the Settlement Agreement is not consummated, money paid or incurred for this purpose, including any related fees, shall not be returned or repaid to the Defendants or their insurance carriers. In the event the Settlement Agreement is not consummated, neither Defendants nor their insurance carriers shall be liable for any costs or fees in excess of the \$75,000.00 originally deposited in Account A. After the Final Settlement Date, Lead Counsel may pay from Account A any unreimbursed costs of notice and Claims Administration accrued to date, as well as the additional costs of Claims Administration incurred after entry of the Final Order and Judgment.

**D. Final Approval and Certification.** After the Fairness Hearing, and upon the Court's approval of this Settlement Agreement, but in no event earlier than one hundred (100) days after filing of this Settlement Agreement, the Court shall enter a Final Order and Judgment substantially in the form and substance of Exhibits 3 and 4 that will, among other things:

1. Determine that Plaintiff, all Members of the Class, and Defendants have submitted to the jurisdiction of the Court for purposes of this settlement, that the Court has personal jurisdiction over the Settling Parties, including all Members of the Class, and that the Court has subject matter jurisdiction to approve this Settlement Agreement;

2. Confirm that the Settlement Class Notice (i) constituted reasonable and the best practicable notice given the circumstances and purpose of

the notice, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Members of the Class of the pendency of this Lawsuit, the proposed certification of the Class for purposes of this settlement, the terms of the proposed settlement, their right to exclude themselves (opt-out) from the Class, their right to object to the settlement, and their right to appear at the settlement hearing; (iii) constituted due, adequate and sufficient notice for all purposes to all persons entitled to receive notice; (iv) met all relevant legal requirements, including due process under the United States Constitution, the Federal Rules of Civil Procedure, and any other applicable rules or provisions of law; and (v) presented a fair recital of the subject matter of the case, the nature of the claims, and the terms of the proposed settlement;

3. Approve this Settlement Agreement as fair, reasonable, adequate and proper, in light of the risks of establishing liability and damages, the possible recovery, all the attendant risks of litigation, the complexity, expense and likely duration of the litigation, the state of the proceedings, the recommendations of competent counsel for the Class, and the reaction of the Class Members to the settlement, and further determining that the settlement secures an advantage for the Class and was made in good faith;

4. Confirm that the Fairness Hearing and any other hearings held by the Court constituted a constitutionally adequate opportunity for Plaintiff and other persons who may be members of the Class (regardless of whether they have excluded themselves or objected to the settlement) to be heard;



5. Confirm and finalize certification of the Class as defined in this Settlement Agreement;

6. Approve finally this settlement, and direct the Settling Parties and their counsel to comply with the terms of this Settlement Agreement, and declare this Settlement Agreement and the Final Order and Judgment to be binding on all Class Members and preclusive in all pending and future lawsuits or other proceedings by such Class Members;

7. Incorporate by reference into the Order the Release set forth in section IV of the Settlement Agreement, and forever discharge the Releasees from any claims or liabilities arising from or relating to the Released Claims and Transactions, as set forth more fully herein, and order that the claims of the Plaintiff and all members of the Class are dismissed with prejudice, except as provided in the Settlement Agreement, and without costs;

8. Retain jurisdiction over the administration of this Settlement Agreement, to supervise the settlement relief, and for any other necessary purpose to administer the settlement;

9. Make an award of attorney's fees and expenses to Counsel for the Class in the manner described herein, or provide for a procedure and schedule to do so;

10. Determine that there is no just reason for delay, and that the judgment of dismissal shall be final and appealable under the Federal Rules of Appellate Procedure.

**E. Retention of Claims Administrator.** Lead Counsel is responsible for Claims Administration and shall retain an administrator to handle Claims Administration. Lead Counsel shall retain and work with the Claims Administrator, and shall respond to inquiries from Members of the Class to which the Administrator cannot satisfactorily respond.

**F. Communications with Class Members.** The Settling Parties agree that Defendants shall refer all inquiries about this settlement from present and past customers, including Members of the Class, to Lead Counsel or its Claims Administrator. Any mass and/or generalized communications about the proposed Settlement Agreement directed to Class Members, or a group thereof, whether by mail, telephone or by any other means, shall only be made jointly with, or with the approval of, Lead Counsel and the Settling Defendants.

## **VII. TERMINATION OF SETTLEMENT AGREEMENT**

**A. Bilateral Right to Terminate.** Either of the Settling Parties may terminate this Settlement Agreement prior to the Final Settlement Date at its sole option and discretion by providing written notice of the termination to counsel for the other Settling Party if and only if:

1. the Court, or any appellate Court(s), rejects, modifies or denies approval of any portion of this Settlement Agreement that the terminating party, in its (or their) sole judgment and discretion, believes is material, including, without limitation, the terms of the Class relief, the provisions relating to Notice, the definition of the Class, the Release, or otherwise; or
2. the Court, or any appellate Court(s), does not enter, or completely and unconditionally affirm, any portion of the Final Order and Judgment that the terminating party in its (or their) sole judgment and discretion believes is material.

**B. Unilateral Right to Terminate.** Settling Defendants may unilaterally terminate this Agreement if more than five percent (5%) of the total transactions at issue opt out of the Class.

**C. Deadline for Termination.** The terminating party must exercise the option to withdraw from and terminate this Settlement Agreement under this Section no later than ten (10) business days after receiving notice of the event upon which the termination is based, provided, however, that if Settling Defendants' Unilateral Right to Terminate vests, Settling Defendants shall have ten days after the expiration of the opt-out period to exercise their Unilateral Right to Terminate, irrespective of the date Settling Defendants' Unilateral Right to Terminate vests.

**D. No Obligation to Exercise Right.** If an option to withdraw from and terminate this Settlement Agreement arises under this Section VIII, none of the Settling Parties is required for any reason or under any circumstance to exercise that option.

**E. Effect of Termination.** If this Settlement Agreement is terminated pursuant to this Section, then:

1. this Settlement Agreement shall be null and void ab initio, shall be of no force or effect whatsoever, shall not be referred to or utilized for any purpose whatsoever, and no party to this Settlement Agreement shall be bound by any of its terms, except for the terms of this Section VII.D.; and

2. this Settlement Agreement, all of its provisions (including, without limitation, any provisions regarding Class certification), and all negotiations, exhibits, information, statements, and proceedings relating to them, shall be without prejudice to the rights of any of the Settling Parties to prosecute or defend this Action in any respect, including the right to litigate fully the issue

related to class certification, raise personal jurisdictional defenses, or any other defenses, such rights being specifically and expressly retained by the Settling Parties; and

3. this Settlement Agreement, all of its provisions (including, without limitation, any provisions regarding Class certification), and all negotiations, statements, and proceedings relating to them, shall not be cited or otherwise used, directly or indirectly, at or in connection with any motion, hearing, or trial, and shall not be admitted into evidence, in any legal action, including but not limited to the Lawsuit, and shall not be deemed to construed to be an admission or evidence of any violation, or of liability or wrongdoing, or of the truth of any of the claims or allegations, regardless of the parties to such legal action, unless such information is obtainable by separate and independent discovery permissible under the Federal Rules; and

4. the Settling Parties shall each be restored to their respective positions existing immediately before the execution of this Settlement Agreement, and all amounts in Account A, less any amounts authorized for disbursement in connection with notice and Claims Administration (as described in Sections II. T. and III. B. of this Agreement), shall be returned to Defendants within ten (10) business days.

#### VIII. **MISCELLANEOUS.**

A. **Interests of the Class.** Plaintiff's Counsel and Plaintiff represent that they are seeking to protect the interests of the entire Class and believe that this Settlement Agreement is

in the best interests of the Class. Plaintiff agrees not to request exclusion from the Class, and Plaintiff and Plaintiff's Counsel agree not to encourage others to do so.

**B. Entire Agreement.** This Settlement Agreement sets forth the entire agreement between the Settling Parties relating to the settlement of the Lawsuit, and may not be altered or modified except by written instrument executed by Lead Counsel and Defendant's Counsel. There are no other representations or warranties between the Settling Parties relating to the subject matter of this Settlement Agreement that are not contained in this agreement, or that are being or have been relied upon by either party to this Settlement Agreement, except as expressly set forth in this Settlement Agreement.

**C. Choice of Law.** This Settlement Agreement shall be construed, interpreted, enforced, and governed according to and under the laws of the Commonwealth of Pennsylvania, without regard or giving effect to its conflict of law principles.

**D. Jurisdiction and Venue.** The Settling Parties irrevocably agree and submit to the sole and exclusive jurisdiction and venue of this Court for decision of any issue arising out of or in any way related to this Settlement Agreement, the facts or circumstances surrounding formation or performance of the Settlement Agreement, or the Lawsuit.

**E. Postmarks and Receipt.** Whenever a Class Member is required to provide notice or submit materials by a certain date, the notice or submission shall be timely only if it is postmarked on or before the date it is due *and* the notice or submission is in fact received by the intended recipient within ten (10) days thereafter. Notwithstanding the foregoing, however, objections to the Settlement Agreement and notices of appearance must be *actually delivered to and received by* the intended recipient on or before the date they are due.

**F. Extensions of Time.** The Settling Parties reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary for the Settling Parties to carry out any of the provisions of this Settlement Agreement. Such extensions must be in writing to be enforceable. Nothing in this paragraph, however, shall entitle any individual Class Member to any extension of time to provide any notice or submission that is required under this Settlement Agreement or any directions or Orders of the Court in connection therewith.

**G. Unambiguous Contract.** All parties, including Plaintiff and Class Members, agree that this Settlement Agreement is clear and unambiguous and was drafted by counsel for both the Settling Parties at arm's length, and that no parol or other evidence may be offered to contradict its terms, its intent, or the circumstances under which it was made or executed.

**H. Counterparts.** This Settlement Agreement may be signed in counterparts, each of which shall constitute a duplicate original. Counterparts may be delivered by facsimile or as a PDF via email, and shall operate as an original upon receipt.

**I. Cooperation.** The Settling Parties agree, upon the request of any one of them, to execute and deliver such further documents and undertake such further action as may reasonably be required to effect the agreements and covenants contained in this Settlement Agreement. Nothing in this Paragraph, however, shall impose any additional duties on any Party except as specifically set forth in this Settlement Agreement.

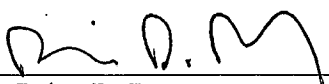
**J. Parties Bound.** This Settlement Agreement shall be binding upon and inure to the benefit of the Settling Parties, the Class Members, the Released Defendants, and their respective heirs, successors and assigns.

**K. Communications Regarding Settlement.** The Settling Parties and their counsel agree that any mass and/or generalized communications with Class Members or the media regarding this Settlement Agreement shall only be made with the prior written approval of Lead Counsel and Defendants' Counsel, provided, however, that any Released Defendant may respond to inquiries by stating that the Lawsuit has been resolved to the satisfaction of all parties. The Settling Parties and their counsel further agree that, prior to the date that the Settlement Class Notice is mailed, no party or counsel shall make any public announcements or other mass and/or generalized communications regarding this Settlement Agreement, including, without limitation, communications with the public, media or press.

**L. Rule 11 Compliance:** The Settling Parties agree that each has complied fully with the strictures of Rule 11 of the Federal Rules of Civil Procedure.

**AGREED** as to both form and substance, as of the 16<sup>th</sup> day of June 2011.

**GOLDMAN SCARLATO & KARON, P.C.**

By:   
Brian D. Penny

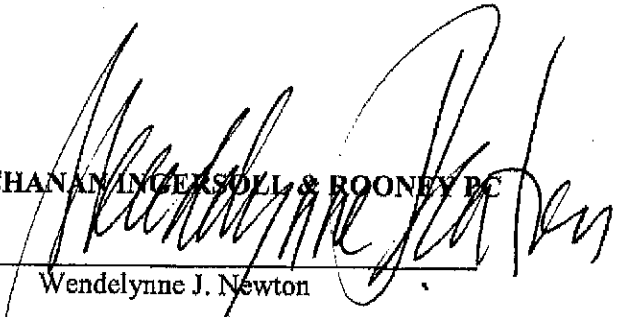
*Lead Counsel for Plaintiff Thomas Logue and the Class*

**METZ LEWIS BRODMAN  
MUST O'KEEFE LLC**

By:   
Brian T. Must

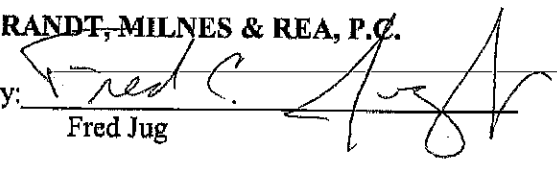
*Counsel for Defendants Helen Hanna Casey,  
George Hackett, Robert P. Freeman d/b/a Freeman  
Realty, Thomas Hosack, and Ronald Croushore*

**BUCHANAN INGENSOLL & ROONEY PC**

By:   
Wendelynne J. Newton

*Counsel for Defendants West Penn Multi-List, Inc.;  
Howard Hanna Real Estate Services, Inc.; NRT  
Pittsburgh LLC d/b/a Coldwell Banker; Everest  
Consulting Group LP d/b/a Northwood Realty  
Services; and Prudential Preferred Realty*

**BRANDT, MILNES & REA, P.C.**

By:   
Fred Jug

*Counsel for Defendant West Penn Multi-List, Inc.*