

No.

IN THE
Supreme Court of the United States

DEUTSCHE BANK TRUST COMPANY AMERICAS, ET AL.,

Petitioners,

v.

ROBERT R. MCCORMICK FOUNDATION, ET AL.,

Respondents.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Second Circuit**

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Second Circuit correctly held—contrary to several other courts of appeals—that the presumption against federal preemption of state law does not apply in the bankruptcy context.

2. Whether the Second Circuit correctly held—following the Third, Sixth, and Eight Circuits, but contrary to the Seventh and Eleventh Circuits—that a fraudulent transfer is exempt from avoidance under 11 U.S.C. § 546(e) when a financial institution acts as a mere conduit for fraudulently transferred property, or whether instead the safe harbor applies only when the financial institution has its own beneficial interest in the transferred property.

3. Whether the Second Circuit correctly held—contrary to this Court’s decisions holding that it is for Congress, and not the courts, to balance the multiple purposes of the Bankruptcy Code, and that courts must therefore rely first and foremost on the text of the Code—that 11 U.S.C. § 546(e) is properly construed to extend far beyond its text and impliedly preempt fraudulent-transfer actions brought by private parties (as opposed to the “trustee” expressly mentioned in the statute.)

RULE 14.1(b) STATEMENT

Petitioners are Retirees of the Tribune Company owed retirement benefits as well as a group of Noteholders, all plaintiffs-appellants-cross-appellees below. The Retiree Petitioners and Noteholder Petitioners are set forth in the appendix. Pet. App. 97a-100a.

Respondents are former Tribune Company shareholders. They are set forth in the appendix. Pet. App. 101a-250a.

RULE 29.6 STATEMENT

Pursuant to Supreme Court Rule 29.6, the undersigned counsel for the Retiree Petitioners certifies that the Retiree Petitioners are either individuals or entities in which no corporation or other entity owns 10% or more of any interest.

The undersigned counsel for the Noteholder Petitioners make the following disclosures with respect to the Noteholder Petitioners, which are Deutsche Bank Trust Company Americas, Law Debenture Trust Company of New York, and Wilmington Trust Company:

Deutsche Bank Trust Company Americas is a banking institution governed by the laws of the State of New York, with a principal place of business at 60 Wall Street, New York, N.Y. 10005. Deutsche Bank Trust Company Americas is a wholly owned subsidiary of Deutsche Bank Trust Corporation. Deutsche Bank Trust Corporation is a wholly owned subsidiary of Taunus Corporation. Taunus Corporation is a wholly owned subsidiary of Deutsche Bank AG. No corporation directly or indirectly owns 10% or more of any class of Deutsche Bank AG's equity interests.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-53a) is reported at 818 F.3d 98. The opinion of the district court (Pet. App. 54a-84a) is reported at 499 B.R. 310.

JURISDICTION

The court of appeals' judgment was entered on March 29, 2016. The court of appeals denied rehearing on July 22, 2016. Pet. App. 85a-88a. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

11 U.S.C. § 546(e) provides, in relevant part:

Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) of this title, the trustee may not avoid a transfer that is a . . . settlement payment . . . made by or to (or for the benefit of) a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency, . . . that is made before the commencement of the case, except under section 548(a)(1)(A) of this title.

Sections 544 and 548(a) of the Bankruptcy Code are reproduced at Pet. App. 89a-96a.

STATEMENT

This case arises out of the disastrous leveraged buyout ("LBO") of the Tribune Company, which siphoned more than \$8.2 billion from the company to its shareholders. Pet. App. 10a, 56a. The LBO left

Tribune insolvent, and it quickly filed for bankruptcy. Pet. App. 11a. Shareholders' windfall came at the expense of Petitioners here: Retirees whose benefits will go unpaid and Noteholders who are owed more than \$2 billion. Pet. App. 12a.

When Tribune emerged from bankruptcy, its plan of reorganization permitted Petitioners, in their own names, to pursue constructive fraudulent-transfer claims against Tribune's former shareholders—claims that state law has authorized creditors to bring for centuries. The Second Circuit, however, held that, upon the filing of Tribune's bankruptcy petition, creditors lost their ability to assert such claims forevermore, no matter what the debtor's plan of reorganization provided.

As the Second Circuit was constrained to admit, no provision of the Bankruptcy Code expressly precludes individual creditors from bringing fraudulent-transfer claims against a debtor's former shareholders. Rather, the Second Circuit held that Petitioners' claims were *impliedly preempted* by Section 546(e) of the Code—a section that provides, in pertinent part, that a bankruptcy “*trustee* may not avoid a *transfer* that is a . . . settlement payment . . . made by or to (or for the benefit of) a . . . financial institution” or other covered entity. 11 U.S.C. § 546(e) (emphasis added).

The Second Circuit's holding in this regard was wrong, and it presents important and recurring questions concerning three subjects on which courts are divided.

The first is whether the longstanding presumption against preemption applies when the

Bankruptcy Code supplements creditor rights that have long been embodied in state law. Every other court of appeals to address the issue has held that, consistent with this Court's own holdings, the presumption does apply. But the Second Circuit held otherwise.

The second concerns the role that a financial institution must play for a fraudulent transfer to fall within Section 546(e)'s domain—a question on which the courts of appeals are deeply and inarguably divided. The Second Circuit repeatedly has held that Section 546(e) shields all recipients of fraudulently transferred property when a financial institution acts only as a conduit—by passing fraudulently transferred property along to Tribune's former shareholders, for example. The Seventh and Eleventh Circuits, however, have held that the section applies only when a financial institution has a beneficial interest in the transferred property, which is not true for the vast majority of property at issue in this case. See, e.g., *FTI Consulting, Inc. v. Merit Mgmt. Grp., LP*, No. 15-3388, 2016 WL 4036408, at *6 (7th Cir. July 28, 2016) (stating that the Seventh and Eleventh Circuits take a different position from five other circuits, including the Second).

The third is the vitality of this Court's holdings that, given the careful balance that Congress has struck in the detailed provisions of the Bankruptcy Code, courts must interpret the Code by starting with its text—and not (as the court of appeals did here) with a single perceived policy goal.

A. Statutory Framework

For centuries, every State has empowered creditors to avoid fraudulent transfers made by their debtor. See *Peters v. Bain*, 133 U.S. 670, 685 (1890) (“The statute of Elizabeth (chapter 5) against fraudulent conveyances has been universally adopted in American law as the basis of our jurisprudence on that subject.”). Creditors can avoid transfers that are fraudulent either intentionally (where there was “actual intent to hinder, delay, or defraud”) or constructively (where the transfer lacked “reasonably equivalent value” and the transferor was insolvent or became insolvent as a result of the transfer). See, e.g., Uniform Fraudulent Transfer Act § 4.

Although creditors are free to bring such claims in their own name outside of bankruptcy, the filing of a bankruptcy petition automatically stays such individual actions so that the newly created estate’s trustee can evaluate whether it wants to prosecute fraudulent transfer claims for the benefit of the entire estate. 11 U.S.C. § 362(a). The automatic stay is of limited duration; it may be lifted at any time by the bankruptcy court, and it expires entirely once a debtor is discharged. *Id.* §§ 362(c), (d).

The Bankruptcy Code supplements creditors’ state-law causes of action by empowering bankruptcy trustees (which are usually but not always the debtor-in-possession) to avoid fraudulent transfers, as well. Section 548(a)(1)(A) creates a federal cause of action by which a trustee can avoid intentional fraudulent conveyances. And Section 548(a)(1)(B) creates a federal cause of action by which a trustee can avoid constructive fraudulent conveyances.

At the same time, Section 544(b) authorizes the trustee to avoid “any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim.” 11 U.S.C. § 544(b)(1). Unlike Section 548(a), Section 544(b) relies, in part, on state fraudulent-conveyance law—the “applicable law”—to define the scope of the action.

A trustee’s exercise of its avoidance powers is subject to a limitation codified in Section 546(e) of the Code. That section prohibits, in pertinent part, “the trustee” from using either Section 544 or Section 548(a)(1)(B) to avoid a transfer as a constructive fraudulent conveyance if the transfer is a “settlement payment” made by or to certain categories of financial institutions. 11 U.S.C. § 546(e). As discussed below, the circuits are divided over whether transfers in which financial institutions serve as a mere conduit are shielded from avoidance by Section 546(e).

B. Factual Background

Tribune is a 166-year-old media company. Pet. App. 56a. For years, Tribune had experienced declining revenues, profitability, and stock value. Nevertheless, in April 2007, Tribune’s board approved an LBO by billionaire Sam Zell, whereby Zell contributed \$315 million in equity, and Tribune borrowed billions more to buy out its shareholders at a premium to the market price. Pet. App. 10a. Shareholders approved the deal and eventually received payments totaling more than \$8.2 billion. As with most LBOs, financial institutions served as conduits for the funds paid to shareholders, but (with

limited exceptions) were not themselves the shareholders who cashed in stock. Post-LBO, Tribune was saddled with \$11 billion in debt.

Less than a year after the LBO was completed, the company—with liabilities exceeding its assets by more than \$3 billion—filed a bankruptcy petition under Chapter 11. Pet. App. 11a. Petitioners are a subset of Tribune’s unsecured creditors who were left holding a largely empty bag. The Retirees are 186 former employees who collectively hold claims for unpaid retirement benefits exceeding \$109 million. The Noteholders are the successor indenture trustees for Tribune’s pre-LBO senior notes and subordinated debentures and are still owed more than \$2 billion.

In November 2010, the bankruptcy court authorized Tribune’s unsecured creditors committee (“the UCC”) to exercise the powers of a bankruptcy trustee in order to sue former Tribune shareholders. The UCC’s trustee suit, brought under Section 548(a)(1)(A), alleged that the shareholders had participated in an intentional fraudulent conveyance that purposefully drained cash from the company to defraud creditors. Pet. App. 11a. The UCC’s trustee suit did not allege any constructive fraudulent-conveyance claims.

Separately, at Petitioners’ request the bankruptcy court partially lifted the automatic stay under Section 362(a) so that Petitioners could bring state-law claims against Tribune shareholders (among them, Respondents here) outside of the bankruptcy proceedings. Pet. App. 12a-14a. Petitioners brought suits in various state and federal courts alleging that Respondents had received constructive fraudulent conveyances as part of the LBO. The lawsuits were

consolidated into a single multidistrict litigation. See *In re Tribune Co. Fraudulent Conveyance Litig.*, 831 F. Supp. 2d 1371 (J.P.M.L. 2011).

In 2012, the bankruptcy court confirmed a plan of reorganization for Tribune (the “Plan”). Under the Plan, the holders of Tribune’s senior notes and the Retirees recovered only 33 cents on the dollar, while the holders of Tribune’s subordinated debentures received nothing. The Plan also created a Litigation Trust that would continue to prosecute the intentional-fraudulent-conveyance claims originally brought by the UCC as bankruptcy trustee. At the same time, the Plan separately provided that Petitioners could continue to pursue “any and all [leveraged-buyout]-Related Causes of Action arising under state fraudulent conveyance law,” except for intentional fraudulent conveyance claims and other LBO-related claims being prosecuted by the Litigation Trust. The bankruptcy court reiterated this point in the confirmation order, stating that, “[f]or the avoidance of doubt, nothing in the Plan shall or is intended to impair the right of [the Retirees or Noteholders] . . . from prosecuting any Disclaimed State Law Avoidance Claim.”

When Tribune emerged from bankruptcy, the automatic stay was terminated. Petitioners’ claims were then allowed to move forward.

C. The District Court’s Opinion

After Petitioners’ claims were consolidated in the Southern District of New York, Respondents moved to dismiss on the ground that Petitioners’ constructive-fraudulent-conveyance claims were preempted by 11 U.S.C. § 546(e), and that Petition-

ers lacked “standing” to bring those claims in any event.

Petitioners preserved the argument that Section 546(e) was inapplicable to LBO transfers, such as the ones here, made *through* financial institutions, but ultimately received by beneficial owners who were not themselves financial institutions. Because that argument was (and remains) foreclosed by Second Circuit law, the district court did not address it. Instead, the district court held (correctly) that Section 546(e) does not bar state-law fraudulent-conveyance claims by individual creditors.

The court first explained that Section 546(e)’s reference to “the trustee” foreclosed Respondents’ claim that the provision expressly barred claims by entities other than the bankruptcy trustee. Pet. App. 63a. The court then rejected Respondents’ argument that Section 546(e) nevertheless impliedly preempts the creditors’ actions.

In reaching that conclusion, the district court acknowledged that, as Respondents had contended, Section 546(e) was enacted in part to enhance stability of the financial markets. But, the court continued, “Congress pursues a host of other aims through the Bankruptcy Code, not least making whole the creditors of a bankruptcy estate.” Pet. App. 66a.

The court therefore looked to the text, structure, and history of Section 546(e). In particular, the court noted that Congress repeatedly declined to include express preemption language in Section 546(e) and that Section 546(e) does not apply to a host of avoidance actions (including intentional-fraudulent-

conveyance claims), “even though these types of claims pose the very same threat to the stability of securities markets” cited by Respondents. Pet. App. 68a. Moreover, citing 11 U.S.C. § 544(b)(2), the court noted that “Congress had demonstrated elsewhere in the Bankruptcy Code that it knows how to—and is willing to—preempt an individual creditor’s state law claims.” Pet. App. 68a. It did not do so in Section 546(e).

Given those textual indications, the district court declined to “upend Congress’s balance between the operation of state and federal law.” Pet. App. 68a. “Congress said what it meant and meant what it said; as such, Section 546(e) applies only to the trustee and does not preempt the Individual Creditors’ [state-law] claims.” Pet. App. 72a (internal citation omitted).

The district court went on to hold, however, that Petitioners lacked “standing” to pursue their claims because the Bankruptcy Code’s automatic stay provision effectively froze individual creditor claims so long as the Litigation Trust’s separate claims were still pending. It therefore granted Respondents’ motion to dismiss.

D. The Second Circuit’s Opinion

The Second Circuit affirmed, but on different grounds. It first held that Petitioners had standing because the bankruptcy court’s lifting of the stay and confirmation of the Plan “freed” Petitioners to bring suit. Pet. App. 9a. But the court held that Petitioners’ claims are nevertheless preempted by Section 546(e). Pet. App. 9a-10a.

The court’s preemption analysis began with the

assertion that the so-called “presumption against preemption” long recognized by this Court did not apply because, “[o]nce a party enters bankruptcy, the Bankruptcy Code constitutes a wholesale preemption of state laws regarding creditors’ rights.” Pet. App. 22a.

The court of appeals also reaffirmed that Section 546(e), which applies to transfers “by or to” certain financial institutions, applies even when such entities serve as “intermediaries” or conduits to a transfer. Pet. App. 25a-26a; 48a. Recognizing that the Second Circuit was constrained by prior panel decisions on that issue, Petitioners had preserved the argument that Section 546(e) does not apply to mere conduits.

The court then addressed Respondents’ obstacle-preemption theory. Brushing past the text of Section 546(e)—which on its face does not reach Petitioners’ actions because it circumscribes only the powers of “the trustee”—the court held “that the purposes and history of that Section necessarily reflect an intent to preempt the claims before us.” Pet. App. 39a-40a. Specifically, the court of appeals focused on Congress’s “larger purpose” of “enhancing the efficiency of securities markets” and minimizing disruptions to those markets. Pet. App. 44a-45a. The court determined that the “inference of a preemptive intent is easily drawn” from what it perceived to be Congress’s primary policy objectives for enacting Section 546(e). Pet. App. 53a. “Trustee,” the court said in substance, must mean “trustee and everybody else.”

The court of appeals denied Petitioners’ request for panel rehearing and rehearing *en banc*.

REASONS FOR GRANTING THE PETITION

The court of appeals held that, upon the filing of a bankruptcy petition, Section 546(e) forevermore preempts all individual-creditor state-law claims to avoid constructive fraudulent transfers made through financial institutions. This court should grant review of that decision for three reasons.

First, this Court has “long presumed that Congress does not cavalierly pre-empt state-law causes of action.” *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996). The Second Circuit, however, ruled that this “presumption against preemption” does *not* apply in the bankruptcy context. This Court has held otherwise—as have numerous circuits. As this Court observed in another bankruptcy case involving assertions of preemption, where Congress’s “intent to override is doubtful, our federal system demands deference.” *BFP v. Resolution Trust Corp.*, 511 U.S. 531, 546 (1994). The application of the presumption against preemption—particularly in the bankruptcy context—is a recurring issue of profound importance that implicates the federal-state balance.

Second, the circuits are divided over another threshold question here—the role that a financial institution must play in a transaction for it to fall within Section 546(e)’s safe harbor. The Second Circuit, following the Third, Sixth, and Eighth Circuits, has held that Section 546(e) applies even when, as here, a financial institution serves as a conduit for the transferred property. The Seventh and Eleventh Circuits, however, have held that the safe harbor applies only if the financial institution had a beneficial interest in the property. The issue goes to the core of the trustee’s avoidance powers

under the Bankruptcy Code and arises frequently in cases involving billions of dollars (as here).

Third, this Court has repeatedly made clear that, because the Bankruptcy Code reflects multiple, often conflicting policies, “it is not for courts to alter the balance struck by the statute.” *Law v. Siegel*, 134 S. Ct. 1188, 1198 (2014). But that is what the court of appeals did here: Disregarding Section 546(e)’s text—which applies only to avoidance actions by “the trustee,” and not by other entities—the court held that Section 546(e) preempts state-law avoidance actions by individual creditors. It reached that conclusion based solely on what it perceived to be Congress’s purpose for enacting the safe harbor. As a result, the Second Circuit eviscerated the right of individual creditors to challenge a wide swath of fraudulent transfers. This Court should grant certiorari to resolve the numerous conflicts created or deepened by the decision below and to lend clarity to this critical area of the law.

I. The Second Circuit’s Holding That The Presumption Against Preemption Does Not Apply To The Bankruptcy Code Creates A Circuit Split And Conflicts With This Court’s Decisions

1. “[B]ecause the States are independent sovereigns in our federal system,” this Court has “long presumed that Congress does not cavalierly pre-empt state-law causes of action.” *Lohr*, 518 U.S. at 485; accord *Bates v. Dow Agrosciences LLC*, 544 U.S. 431, 449 (2005). That presumption against preemption “provides assurance that ‘the federal-state balance’ will not be disturbed unintentionally by Congress or

unnecessarily by the courts.” *Jones v. Rath Packing Co.*, 430 U.S. 519, 525 (1977) (citation omitted). It is a “cornerstone[] of . . . pre-emption jurisprudence.” *Wyeth v. Levine*, 555 U.S. 555, 565 (2009).

A party arguing for preemption thus “bear[s] the considerable burden of overcoming the starting presumption that Congress does not intend to supplant state law.” *De Buono v. NYSA-ILA Med. & Clinical Servs. Fund*, 520 U.S. 806, 814 (1997) (internal quotation marks omitted). As this Court has unanimously held, “a ‘clear and manifest purpose’ of pre-emption *is always required*” before federal legislation may supersede the historic police powers of the States. *Puerto Rico Dep’t of Consumer Affairs v. Isla Petroleum Corp.*, 485 U.S. 495, 503 (1988) (emphasis added).

According to the Second Circuit, however, the bedrock presumption against preemption of creditors’ rights disappears once a bankruptcy case has been filed. The court held that the presumption ceases to apply the moment a debtor files a bankruptcy petition because “there is no measurable concern about federal intrusion into traditional state domains.” Pet. App. 24a. The Bankruptcy Code “constitutes a *wholesale preemption* of state laws regarding creditors’ rights.” Pet. App. 22a (emphasis added).

2. That holding conflicts with decisions of the Third and Ninth Circuits, both of which have held that the Bankruptcy Code does not effect a wholesale abrogation of state law, and that the presumption against preemption applies with equal force in the bankruptcy context.

In *Integrated Solutions, Inc. v. Service Support Specialties, Inc.*, 124 F.3d 487 (3d Cir. 1997), the Third Circuit stated that, “[b]ecause we are reluctant to assume federal preemption, . . . any analysis should begin with the basic assumption that Congress did not intend to displace state law.” *Id.* at 491 (internal quotation marks omitted). It further held that there was a “strong presumption against inferring Congressional preemption in the bankruptcy context.” *Id.* at 493. Applying that presumption, the court concluded that the Bankruptcy Code did not preempt state law prohibiting the assignment of prejudgment tort claims. *Id.* at 489; see also *In re Fed.-Mogul Glob. Inc.*, 684 F.3d 355, 365 (3d Cir. 2012) (holding that that the “strong presumption against inferring Congressional preemption . . . applies in the bankruptcy context”) (internal quotation marks omitted).

The Ninth Circuit has reached a similar conclusion. In *PG&E v. California ex rel. California Department of Toxic Substances Control*, 350 F.3d 932 (9th Cir. 2003), the court held that “the presumption against displacing state law by federal bankruptcy law is just as strong in bankruptcy as in other areas of federal legislative power.” *Id.* at 943.¹

3. The Second Circuit’s holding that the presumption against preemption does not apply to

¹ See also *In re Irving Tanning Co.*, 496 B.R. 644, 663 (B.A.P. 1st Cir. 2013) (holding that “respect for states as sovereigns in our federal system” demands that the “presumption against preemption” apply in the bankruptcy context just as any other).

the Bankruptcy Code also conflicts with this Court's decisions.

Citing *United States v. Locke*, 529 U.S. 89 (2000), the court reasoned that the presumption against preemption applies only “when Congress is legislating in an area recognized as traditionally one of state law *alone*.” Pet. App. 21a (emphasis added). But this Court has held quite the opposite: the presumption “does *not* rely on the absence of federal regulation.” *Wyeth*, 555 U.S. at 565 n.3 (emphasis added). Even though *Wyeth* involved drug labeling, a field “the Federal Government has regulated . . . for more than a century,” the presumption against preemption applied precisely because “our federal system” demands “respect for the States as ‘independent sovereigns.’” *Id.* (quoting *Lohr*, 518 U.S. at 485). This Court similarly emphasized in *Lohr* that the presumption against preemption applies “[i]n *all* pre-emption cases” where state and federal laws coexist. 518 U.S. at 485 (emphasis added).

The Second Circuit's application of *Locke* is in direct conflict with this Court's decisions in *Wyeth* and *Lohr*. *Locke* reflects only the narrow proposition that the presumption is inapplicable in “area[s] where there has been [such] a history of significant federal presence” that “Congress has left *no* room for state regulation.” *Locke*, 529 U.S. at 90-91 (emphasis added). In other words, it is a statement about the scope of field preemption in an area that the federal government has occupied *completely*, such as “national and international maritime commerce.” *Id.* at 108; see also *Union Pac. R.R. v. California Pub. Utilities Comm'n*, 346 F.3d 851, 864

n.17 (9th Cir. 2003) (“the maritime law at issue in *Locke* . . . ha[d] been almost exclusively federally regulated since the Founding”); *Pinney v. Nokia, Inc.*, 402 F.3d 430, 454 n.4 (4th Cir. 2005) (“[R]eliance on *Locke* is misplaced” when dealing with areas where “States continue to have considerable authority.”).

Yet, without uttering the words “field preemption,” the Second Circuit held that, once a bankruptcy petition is filed, traditional state-law tort actions become just like maritime commerce (where there is “no measurable concern about federal intrusion into traditional state domains”) because “the Bankruptcy Code constitutes a wholesale preemption of state laws regarding creditors’ rights.” Pet. App. 22a, 24a.

This Court held just the opposite in *BFP*, where it applied the presumption against preemption in the bankruptcy context. 511 U.S. at 546. In *BFP*, the question was whether the Bankruptcy Code supplanted state foreclosure law. There was tension between then-Section 548(a)(2)(A) of the Code (which allowed a trustee to avoid transfers where the debtor received less than “reasonably equivalent value”) and state foreclosure laws (which allow sales for less than “fair market value”). *Id.* at 547-48. The petitioners argued that the Code’s requirement of “reasonably equivalent value” meant that laws allowing sales for less than “fair market value” were preempted.

Although this Court recognized that “[t]he Bankruptcy Code can of course override [state law] by implication,” it required a clear intent to do so: “[W]here [Congress’s] intent to override is doubtful, our federal system demands deference to long-

established traditions of state regulation.” *Id.* at 546. It concluded that Congress had not clearly intended to supplant state foreclosure law, and so the Code was read “to adopt, rather than to displace, pre-existing state law.” *Id.* at 545. Federal respect for state sovereignty demanded that the analysis begin with the presumption that the Code did not replace wide-reaching, and long-extant, state laws. Even in the bankruptcy context, the “cornerstone” presumption against preemption applied.

BFP was not the first time this Court held that the Bankruptcy Code does not preempt all state regulation of debtor-creditor relations. In *Midlantic National Bank v. New Jersey Department of Environmental Protection*, 474 U.S. 494 (1986), the Court held that “Congress did not intend for the Bankruptcy Code to pre-empt all state laws” relevant to trustees. *Id.* at 505. Far from preempting traditional areas of state law, the court explained, the Code relies on them. In support, this Court pointed to 28 U.S.C. § 959(b), which requires a trustee to manage property in his possession “according to the requirements of the valid laws of the State.” 474 U.S. at 505 n.7. Although not part of the Bankruptcy Code, Section 959(b) demonstrates the interconnectedness of the Code with state laws, and the principle that the Code does *not* work a “wholesale preemption of state laws regarding creditors’ rights.” Pet. App. 22a.

In *Butner v. United States*, 440 U.S. 48, 54-55 (1979), this Court likewise recognized that, at bottom, “[p]roperty interests are created and defined by state law.” *Id.* at 55. Unless Congress expresses its intent to displace state property laws, “there is no

reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding.” *Ibid.* Supplanting state laws, this Court explained, could allow a party to receive “a windfall merely by reason of the happenstance of bankruptcy.” *Ibid* (internal quotation marks omitted).

4. The Second Circuit’s refusal to apply the presumption against preemption was erroneous. Even if the presumption applies only where there is a long history of state regulation, it would apply here. Protection from fraudulent conveyances, and protection of property against fraud in general, have long been areas of state regulation. Indeed, “protection against fraud” is among “the oldest [purposes] within the ambit of the police power.” *California v. Zook*, 336 U.S. 725, 734 (1949).

State policing of fraudulent conveyances predates the American Revolution. See generally *Orr v. Kinderhill Corp.*, 991 F.2d 31, 34-35 (2d Cir. 1993); 1 GARRARD GLENN, *FRAUDULENT CONVEYANCES & PREFERENCES* § 58 (1940 ed.). When Congress enacted additional remedies for fraudulent conveyances in the Bankruptcy Code, it “simply reclassified a pre-existing, common-law cause of action.” *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 60 (1989).

Moreover, the contours of fraudulent-conveyance law are largely defined by state law, and the Bankruptcy Code extensively relies on such state law. See 11 U.S.C. § 544(b); *Patterson v. Shumate*, 504 U.S. 753, 758 (1992) (collecting references to “state law” in the Bankruptcy Code). It is nonsensi-

cal for the Code to work a wholesale preemption of the very laws it relies on for implementation.

5. Whether the presumption against preemption applies in the bankruptcy context is of paramount importance. As this Court has recognized, the presumption is a “cornerstone[]” of any preemption analysis. *Wyeth*, 555 U.S. at 565. And as explained in Section III below, the Bankruptcy Code represents a delicate balancing of many competing interests, both state and federal. Congress treaded lightly when abrogating state regulation.

Application of the presumption ensures that Congress’s careful balance is not upset. The Second Circuit’s approach, which ignores the presumption and concludes that there is a “wholesale preemption,” poses significant challenges to long-settled law. As this Court noted in *BFP*, a finding of preemption would cloud title to every foreclosed property where the former owner filed for bankruptcy. 511 U.S. at 546.

Moreover, the reach of the Second Circuit’s opinion has already shown itself. Concurrently with its decision in this case, the Second Circuit affirmed dismissal of creditor actions in *Whyte v. Barclays Bank PLC*, No. 13-2653-CV, 2016 WL 1138642 (2d Cir. Mar. 24, 2016). A petition for certiorari was filed in that case on August 19, 2016, raising substantially the same issues as this petition.

II. The Courts Of Appeals Are Deeply Divided Over The Scope Of Section 546(e)’s Safe Harbor

1. As the Second Circuit has acknowledged, “[t]here is a split of authority regarding what role a

financial institution must play in the transaction for it to qualify for the section 546(e) safe harbor.” *In re Quebecor World (USA) Inc.*, 719 F.3d 94, 98 (2d Cir. 2013). The decision below further entrenches that split.

Section 546(e) provides an exception to other Code provisions that allow the trustee to avoid certain transfers made by the debtor. As relevant here, the safe harbor provides that “the trustee may not avoid a transfer that is a . . . settlement payment . . . *made by or to (or for the benefit of)*” a “financial institution” or other covered entity. 11 U.S.C. § 546(e) (emphasis added).² The Second, Third, Sixth, and Eighth Circuits have held that the safe harbor applies even when a financial institution serves only as a conduit for the transferred property. The Eleventh and Seventh Circuits, by contrast, have held that the safe harbor does not protect transfers that merely pass *through* a financial institution—as nearly every transfer these days must.

The Eleventh Circuit was the first court to address the reach of Section 546(e) squarely. *In re Munford, Inc.*, 98 F.3d 604 (11th Cir. 1996), like this case, involved a leveraged buyout. The company (Munford) purchased the outstanding stock of its shareholders by depositing funds with a financial institution, which passed those funds on to Munford’s shareholders. Later, the new company filed for bankruptcy and the bankruptcy trustee

² The Code defines “settlement payment” to include “payment[s] commonly used in the securities trade.” 11 U.S.C. § 741(8).

sought to avoid the payments. The shareholders argued that the payments were exempt from avoidance under Section 546(e)'s safe harbor.

Relying on the statute's text, the Eleventh Circuit disagreed. Section 546(e), the court explained, "is not applicable *unless* the transfer (or settlement payment) was 'made by or to a commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency.'" *Munford*, 98 F.3d at 610 (quoting 11 U.S.C. § 546(e)). The LBO payments, however, "were made *by* Munford *to* shareholders." *Ibid.* Because none of the covered entities listed in Section 546(e) made or received a transfer payment, the court held, Section 546(e)'s safe harbor did not apply. *Ibid.*

In reaching that conclusion, the court acknowledged that—as is almost always the case—a financial institution was "presumptively involved" in the transaction. *Ibid.* But the "bank here was nothing more than an intermediary or conduit" for the transferred property, and therefore never acquired any beneficial interest in either the funds or the shares. *Ibid.*

The Third, Sixth, and Eighth Circuits later rejected that holding. In *In re Resorts International, Inc.*, 181 F.3d 505 (3d Cir. 1999), the Third Circuit asserted that *Munford's* holding "is not explicit in section 546." *Id.* at 516. In *Contemporary Industries Corporation v. Frost*, 564 F.3d 981 (8th Cir. 2009), the court opined that the language of the statute "does not expressly require that the financial institution obtain a beneficial interest in the funds." *Id.* at 986-87. In *In re QSI Holdings, Inc.*, 571 F.3d 545 (6th Cir. 2009), the Sixth Circuit held that

Section 546(e)'s safe harbor applies even when a financial institution served as a mere conduit. *Id.* at 551.

The Second Circuit then weighed in. In *Enron Creditors Recovery Corp. v. Alfa, S.A.B. de C.V.*, 651 F.3d 329 (2d Cir. 2011), the court of appeals rejected the argument that Section 546(e) applies only if a financial intermediary took a beneficial interest in the securities. Then, in *Quebecor*, the Second Circuit clarified that, “[t]o the extent *Enron* left any ambiguity,” “we expressly follow the Third, Sixth, and Eighth Circuits in holding that a transfer may qualify for the section 546(e) safe harbor even if the financial intermediary is merely a conduit” for the transfer. *Quebecor*, 719 F.3d at 99.

The Second Circuit reaffirmed that holding again in the decision below, stating that the safe harbor “clearly covers payments, such as those at issue here, by commercial firms to financial intermediaries to purchase shares from the firm’s shareholders.” Pet. App. 42a; see *id.* 25a-26a (Section 546(e) applies to “financial intermediaries”).³

After the Second Circuit issued its decision, however, the Seventh Circuit joined the Eleventh in holding that Section 546(e) does *not* “protect[] transfers that are simply conducted *through*

³ Petitioners had won the preemption issue in the district court and were bound by Second Circuit authority to accept before the three-judge panel the proposition that “settlement payments” include those in which a financial institution is merely a conduit, but at page 82 of their cross-appellee brief they expressly preserved the argument that the prior Second Circuit cases had been wrongly decided.

financial institutions . . . , where the entity is neither the debtor nor the transferee but only the conduit.” *FTI Consulting*, 2016 WL 4036408, at *1. Chief Judge Wood explained for the court that the surrounding Code provisions establish that only transfers “made by” the debtor, or “to” entities that incur an actual obligation to the debtor, are avoidable by the trustee. Thus, Section 546(e)’s safe harbor—which shields only those transactions that are avoidable by the trustee in the first place—must likewise apply only where the financial institution has its own beneficial interest in the transfer. *Id.* at *3.

Given the clear split, this case would have ended differently in the Seventh or Eleventh Circuits. As in *FTI Consulting* and *Munford*, Petitioners here challenge transfers made from the debtor company (Tribune) to its shareholders. And, as in *FTI Consulting* and *Munford*, the funds for the transaction merely passed *through* one or more financial institutions on the way to those shareholders.

In the Seventh or Eleventh Circuits, Section 546(e)’s safe harbor would not have shielded the Tribune shareholders from constructive fraudulent conveyance claims. But the Second Circuit held that the safe harbor applied—thus preventing Tribune’s creditors from even attempting to recover billions of dollars of fraudulently

transferred funds. The circuit split is case dispositive.⁴

2. Whether Section 546(e)'s safe harbor applies where a financial institution served as a mere conduit in a securities transaction is a recurring question of extraordinary importance.

Six courts of appeals have addressed the issue—two in the last six months alone. Those courts have reached opposing conclusions in cases involving the transfer of billions of dollars. In the meantime, lower courts have repeatedly faced the issue and (not surprisingly, given the lack of uniformity among the circuits) are unable to agree on the proper interpretation of the safe harbor either.⁵

⁴ If Section 546(e) does not apply to transfers that pass through conduit financial institutions, then the decision below should be reversed even if the Second Circuit was correct to hold that Section 546(e) preempts creditors' state-law fraudulent-conveyance claims (though as we discuss in Section III, it was not). That is because, even if Section 546(e) preempted state-law claims brought by private parties (not trustees), it would preempt only those claims involving transfers "by or to" financial institutions as set forth in Section 546(e).

⁵ Compare, e.g., *Zahn v. Yucaipa Capital Fund*, 218 B.R. 656, 676 n.31 (D.R.I. 1998) (safe harbor does not apply to conduits), and *In re Zale Corp.*, 196 B.R. 348, 352-54 (N.D. Tex. 1996) (same), with *U.S. Bank Nat'l Ass'n v. Verizon Commc'ns Inc.*, 892 F. Supp. 2d 805, 815-16 (N.D. Tex. 2012) (safe harbor does apply to conduits), and *In re D.E.I. Sys., Inc.*, 996 F. Supp. 2d 1142, 1149-51 (D. Utah 2014) (same); see also 5-546 COLLIER ON BANKRUPTCY ¶ 546.06 (16th ed. 2013) (noting "disagreement among courts" about whether the safe harbor requires financial institutions to hold a beneficial interest in the transaction).

The question goes to the heart of the bankruptcy system. “The powers and duties of a bankruptcy trustee are extensive.” *CFTC v. Weintraub*, 471 U.S. 343, 352 (1985). Among other things, the Code vests the trustee with “broad powers” to avoid certain transfers made by the debtor. *In re Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey*, 130 F.3d 52, 55 (2d Cir. 1997); see 11 U.S.C. §§ 544, 547, 548.

Section 546(e)’s safe harbor carves out a narrow exception to the trustee’s expansive avoidance powers—namely, where settlement payments are made “by or to” a financial institution (and where there was no fraudulent intent). The Second Circuit’s interpretation of the safe harbor, however, creates a hole in that exception large enough to drive a truck through. In the vast majority of securities transactions, funds will pass *through* a financial institution en route to shareholders. By deeming that financial pit-stop sufficient to trigger Section 546(e)’s safe harbor, the Second Circuit eviscerated the trustee’s (and, through its preemption holding, everyone else’s) avoidance power with respect to a broad swath of financial transactions. As this case illustrates, the result of that interpretation is to shield \$2 billion in constructively fraudulently transferred assets from recovery—and ultimate distribution to creditors.

The parties hurt by an improperly expansive application of Section 546(e) are creditors who invest in corporate debt. Those creditors accept lower returns in exchange for the knowledge that they have priority in bankruptcy over equity holders. The Second Circuit’s application of Section 546(e) allows

companies to annul that protection. Through LBOs, shareholders retain the entire value of a company at the expense of its creditors. Far from avoiding market displacement, as the Second Circuit surmised, that overexpansive application will upend long-settled expectations in the debt market.

“The Bankruptcy Code standardizes an expansive (and sometimes unruly) area of law, and it is [this Court’s] obligation to interpret the Code clearly and predictably using well established principles of statutory construction.” *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 132 S. Ct. 2065, 2073 (2012). Uniformity in the interpretation of the law is particularly important with respect to bankruptcy laws. Indeed, this Court frequently grants certiorari where the courts of appeals have adopted differing interpretations of the Code.⁶ This Court should do so here to resolve the circuit split and clarify the scope of Section 546(e)’s safe harbor.

3. The decision below is wrong. To begin with, Section 546(e) provides an exception to the avoidance powers conferred on the trustee by other provisions

⁶ *E.g.*, *Husky Int’l Electronics, Inc. v. Ritz*, 136 S. Ct. 1581, 1585 (2016) (Section 523’s “actual fraud” requirement); *Bullock v. BankChampaign, N.A.*, 133 S. Ct. 1754, 1758 (2013) (Section 523’s scienter requirement); *Ransom v. FIA Card Services, N.A.*, 562 U.S. 61, 68 (2011) (allowable debtor deductions); *Schwab v. Reilly*, 560 U.S. 770, 774 (2010) (“claim of exemption” under Section 522); *Howard Delivery Service, Inc. v. Zurich American Ins. Co.*, 547 U.S. 651, 657 (2006) (status of workers’ compensation premiums under Section 507); *Fidelity Financial Services, Inc. v. Fink*, 522 U.S. 211, 214 (1998) (when a transfer is “perfected” under Section 547); *Barnhill v. Johnson*, 503 U.S. 393, 396 (1992) (date of avoidable transfer).

of the Code. And those provisions provide that a trustee can avoid a transfer only to a “transferee.” See 11 U.S.C. § 550(a). As every court of appeals to address the issue has held, a party does not qualify as a “transferee unless and until he gained [a] beneficial interest in” the property at issue. *In re Bullion Reserve of North Am.*, 922 F.2d 544, 549 (9th Cir. 1991); see *In re Coutee*, 984 F.2d 138, 140-41 (5th Cir. 1993) (citing circuits holding that a “transferee” must have “dominion or control” over the property). Because a financial intermediary that serves as a conduit “never acquired a beneficial interest in the funds, it was not a ‘transferee’ in the LBO transaction.” *Munford*, 98 F.3d at 610.

As the Seventh Circuit explained in *FTI Consulting*, other Code provisions confirm the point. Section 555, for example, gives certain rights to the same financial entities enumerated in Section 546(e)’s safe harbor where those entities are *counterparties* to a securities contract with the debtor. That indicates that, under Section 546(e), those same financial entities must also be counterparties to, and not mere conduits for, the challenged transfer. *FTI Consulting*, 2016 WL 4036408, at *4.

The Second Circuit focused on what it viewed as the safe harbor’s purpose: “minimizing the displacement caused in the commodities and securities markets,” including a potential ripple effect in which the insolvency of one financial firm spreads to others. *Enron*, 651 F.3d at 334 (internal quotation marks and alterations omitted); see Pet. App. 44a-45a. But, as the Seventh Circuit explained, that concern is not implicated where financial institutions serve as mere conduits to a transaction.

FTI Consulting, 2016 WL 4036408, at *6. In any event, “the repercussions of undoing a deal like this” do not “outweigh the necessity of the Bankruptcy Code’s protections for creditors.” *Ibid*; see also *In re Lyondell Chem. Co.*, 503 B.R. 348, 372-73 (Bankr. S.D.N.Y. 2014) (“Transactions whose reversal would not create systemic risk arguably also include LBO payments to stockholders at the very end of the asset transfer chain”).

III. The Second Circuit’s Implied-Preemption Holding Conflicts With This Court’s Precedents Regarding Interpretation Of The Bankruptcy Code

1. The Bankruptcy Code promotes multiple, sometimes conflicting, purposes. *RadLAX*, 132 S. Ct. at 2073. For that reason, this Court has repeatedly held—in no fewer than three decisions in the past five years—that “it is not for courts to alter the balance struck by the statute.” *Law*, 134 S. Ct. at 1198.

Thus in *Law*, a trustee argued that allowing Section 522’s “homestead exemption” to apply where the debtor had engaged in misconduct would produce inequitable results for creditors. Rejecting that policy argument, this Court applied the statute’s plain meaning. As the Court explained: “Congress balanced the difficult choices that exemption limits impose on debtors with the economic harm that exemptions visit on creditors,” and so it was not for the courts to upset that careful balance. 134 S. Ct. at 1197-98.

In *RadLAX*, the Court likewise declined to choose among policy arguments when interpreting a Code

provision that, the Court held, authorized “credit-bidding” by lienholders. “[T]he pros and cons of credit-bidding,” the Court explained, “are for the consideration of Congress, not the courts.” 132 S. Ct. at 2073.

And in *Hall v. United States*, 132 S. Ct. 1882 (2012), the Court held that tax liability arising from the post-petition sale of a farm was not “incurred by the estate” within the meaning of Section 503(b). In reaching that conclusion, the Court rejected the argument that its textual conclusion conflicted with Congress’s “intent” to provide debtors relief from tax debts:

there may be compelling policy reasons [for including such sales]. But if Congress intended that result, it did not so provide in the statute. Given the statute’s plain language, context, and structure, it is not for us to rewrite the statute, particularly in this complex terrain of interconnected provisions and exceptions enacted over nearly three decades.

Id. at 1893.

The clear teaching from these cases is that the court’s task in interpreting the Code is not to determine what *the* policy is for a specific provision. Instead, the court’s task is to determine *how far* a provision goes in the service of the multiple policies served by the Code. And to do that, a court must start with “the statute’s plain language, context, and structure,” *ibid.*—not with what it perceives to be Congress’s primary “purpose” in enacting a provision.

2. The Second Circuit’s decision squarely conflicts with those precedents. As noted, Section 546(e) provides that “*the trustee* may not avoid a transfer that is a . . . settlement payment.” 11 U.S.C. § 546(e) (emphasis added). The question here is whether that language prevents parties *other than* “the trustee”—such as the individual creditors in this case—from bringing state-law fraudulent conveyance actions.

In answering that question, the court below did not “begin with the understanding that Congress says in a statute what it means and means in a statute what it says there.” *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000) (quotation marks omitted). Instead, it began (and ended) with what it perceived to be the *policy* animating Section 546(e). According to the Second Circuit, Congress enacted Section 546(e) in order to “minimiz[e] the displacement caused in the commodities and securities markets in the event of a major bankruptcy affecting those industries.” Pet. App. 44a (quoting *Quebecor*, 719 F.3d at 100). “To allow appellants’ [state-law fraudulent conveyance] claims to proceed,” the court explained, “we would have to construe Section 546(e) as achieving the opposite of what it was intended to achieve.” Pet. App. 40a-41a.

As the district court rightly acknowledged, however, “Congress pursues a host of other aims through the Bankruptcy Code, not least making whole the creditors of a bankruptcy estate.” Pet. App. 66a. And it is “not at all clear that Section 546(e)’s purpose with respect to securities transactions trumps all of bankruptcy’s other purposes,” including maximizing return to creditors.

Pet. App. 66a. This Court, too, has recognized that “maximizing property available to satisfy creditors” is a core purpose of the Code’s avoidance provisions. *Bank of America Nat’l Trust & Sav. Ass’n v. 203 North LaSalle St. P’ship*, 526 U.S. 434, 453 (1999).

Confronted with those competing purposes, however, the Second Circuit did exactly what this Court has instructed it *not* to do: It reweighed “the balance struck by the statute,” *Law*, 134 S. Ct. at 1198, and decided that a solitary policy goal—preventing market instability—trumped all others. And, based on that perceived policy goal, the court of appeals inferred that Congress intended to preempt state-law fraudulent-conveyance actions by parties *other than* “the trustee” named in the statute’s text. That approach squarely conflicts with this Court’s holdings.

3. The Second Circuit’s holding that Section 546(e) conflict-preempts individual creditors’ fraudulent-conveyance actions is wrong.

This Court’s precedents set a particularly “high threshold” for establishing conflict preemption. *Chamber of Commerce of United States v. Whiting*, 563 U.S. 582, 607 (2011) (internal quotation marks omitted). In implied-preemption cases, as in all cases, the inquiry “must begin with the language employed by Congress.” *Wyeth*, 555 U.S. at 599 (Thomas, J., concurring) (internal quotation marks omitted). Here, “the text, structure, and history” of Section 546(e), *Arizona v. United States*, 132 S. Ct. 2492, 2505 (2012), all conclusively show that Congress did *not* intend that provision to preempt state-law fraudulent-conveyance claims by creditors.

To begin with, Section 546(e)'s text could not be clearer. In *Hartford Underwriters* (which the Second Circuit failed to cite), this Court expressly rejected an analogous argument that a Code provision applicable to “the trustee” covered *other* parties. There, the Court addressed whether an administrative claimant could seek recovery under Section 506(c), which provided that “the trustee” may do so. Interpreting the statute’s plain text, this Court said no: The provision was “quite plain in specifying” that it applied to “the trustee,” and not others. *Hartford Underwriters*, 530 U.S. at 6, 7. So too here: If Congress had intended Section 546(e)'s reference to “the trustee” to mean *other parties* (such as individual creditors) “it could simply have said so.” *Id.* at 7.

Congress, moreover, knows how to speak about parties other than a trustee. Yet Section 546(e) does not, by its terms, disempower “any person,” or “any creditor,” or “any party in interest” from bringing fraudulent-conveyance actions—all terms that the Code uses when Congress intended to affect a broader group. *E.g.*, 11 U.S.C. § 101(10), § 1109(b). Rather, it says that “the trustee” cannot bring certain avoidance actions, thus limiting Section 546(e)'s scope. And that makes complete sense. As noted, Section 546(e) is an *exception* to other provisions of the Code that grant the trustee authority; it therefore naturally applies only to “the trustee” granted those powers in the first place.

Congress also knows how to preempt state-law avoidance actions. Section 544(b)(2), for example, provides that a trustee’s avoidance powers cannot be used to avoid certain transfers made to charitable

organizations. But, unlike Section 546(e), Section 544 goes on to provide that “[a]ny claim *by any person*” to recover such contributions “under Federal or State law . . . *shall be preempted.*” 11 U.S.C. § 544(b)(2) (emphasis added). The absence of such a provision in Section 546(e) is “powerful evidence” that Congress did *not* intend that Section to preempt state-law claims belonging to individual creditors, such as Petitioners here. *Wyeth*, 555 U.S. at 574-75.

Indeed, Congress rejected similar preemption language when it enacted Section 546(e), see Pet. App. 67a; it added a preemption clause to Section 544(b)(2) precisely to bind parties *other than* the trustee, see 144 CONG. REC. H3999-02 (June 3, 1998); it amended 546(e) but declined to add preemption language in *the same bill* in which it enacted Section 544(b)(2), see Pub. L. No. 105-183, § 3(c)(1); and it has since amended Section 546(e) repeatedly—without adding preemption language, see Pet. App. 67a-68a. As in *Wyeth*, that history shows that Congress did not intend Section 546(e) to tacitly preempt state-law actions by individual creditors. 555 U.S. at 574-75.

In the face of this overwhelming evidence, the Second Circuit disparaged the “narrow literalness” of the word “trustee,” Pet. App. 44a, and instead looked to what it perceived to be the sole purpose of Section 546(e)—namely, the risk of disruption to “the securities market” generally. Pet. App. 44a. As noted above, the Second Circuit’s elevation of that single congressional purpose over all others conflicts with this Court’s bankruptcy-law precedents. It also conflicts with this Court’s decisions holding that conflict preemption looks to whether state law

“stands as an obstacle to the accomplishment and execution of the *full purposes* and objectives of Congress.” *Arizona*, 132 S. Ct. at 2501 (emphasis added) (quotation marks omitted). Here, the “text, structure, and history” of the safe harbor show that “Congress has repeatedly indicated that it did not enact Section 546(e) to protect market stability to the exclusion of all other policies.” Pet. App. 67a.

Indeed, as the district court here recognized, Section 546(e)’s domain is, by its express terms, a quite limited one. It does not apply *before* the commencement of a bankruptcy case, when individual creditors are free to avoid settlement payments. Nor does it apply *after* the dismissal of a bankruptcy case. Pet. App. 68a. And during a bankruptcy case, Section 546(e) permits the trustee to avoid *intentional* fraudulent transfers of settlement payments—even though the potential market disruption is the same regardless whether the fraud was intentional or constructive. If, as the Second Circuit believes, Congress intended Section 546(e) to insulate the financial markets from any possible disruption caused by fraudulent-conveyance actions, Congress could have enacted a broader safe harbor. It didn’t.

Implied-preemption analysis does not justify a “freewheeling judicial inquiry into whether a state statute is in tension with federal objectives.” *Whiting*, 563 U.S. at 607 (quotation marks omitted). The Second Circuit engaged in just such an inquiry here: It turned a blind eye to the text, structure, and history of Section 546(e), and instead divined a congressional intent to preempt from what it perceived to be Congress’s sole purpose for enacting

the statute. This Court should take the case to reaffirm that “it is Congress rather than the courts that preempts state law.” *Ibid.* (quotation marks omitted).

4. The question whether Section 546(e) preempts state-law avoidance actions by individual creditors is a recurring and important one.

Several courts have recently addressed that very question—and all have disagreed with the Second Circuit’s interpretation here. In *Lyondell*, the bankruptcy court held that “state law constructive fraudulent transfer claims brought on behalf of individual creditors are not impliedly preempted, by Section 546(e).” 503 B.R. at 378.⁷ *PHP Liquidating, LLC v. Robbins*, 291 B.R. 603 (D. Del. 2003), *aff’d on other grounds*, 128 F. App’x 839 (3d Cir. 2005), likewise held that, because the creditor there did not assert its claims “in the capacity of a trustee . . . Section 546(e) is not a bar” to its claims. *Id.* at 607.

And, in *In re Physiotherapy Holdings, Inc.*, No. 13-12965, 2016 WL 3611831 (Bankr. D. Del. June 20, 2016)—decided three months after the decision below—the bankruptcy court found the court’s “reasoning in *Lyondell* more persuasive [than the Second Circuit’s] and therefore adopt[ed] its holding” that Section 546(e) does not preempt individual creditors’ state-law claims. *Id.* at *7

⁷ Following the Second Circuit’s ruling here, the Bankruptcy Court was compelled to reverse itself and has recommended that the district court dismiss the individual creditor claims based on the Second Circuit’s opinion.

As noted above, this Court regularly grants certiorari to address conflicting interpretations of the Bankruptcy Code. This Court also frequently reviews preemption cases—scarcely surprising given that such cases directly implicate the “respect for the States as independent sovereigns in our federal system.” *Wyeth*, 555 U.S. at 565 n.3 (internal quotation marks omitted). This case, of course, stands at the intersection of both bankruptcy and preemption law. Just last Term, this Court reviewed another case addressing the scope of preemption under the Bankruptcy Code. See *Puerto Rico v. Franklin California Tax-Free Trust*, 136 S. Ct. 1938 (2016). It should do so here, too.

“[B]olstering creditors’ rights” is a “primary objective of avoidance powers.” *In re Cybergenics Corp.*, 226 F.3d 237, 244 n.9 (3d Cir. 2000). That is no less true for state-law fraudulent conveyance actions, which have existed “since the time of the Revolutionary War.” *Lyondell*, 503 B.R. at 362. Yet, because of the analytic errors discussed above, all state-law fraudulent conveyance actions regarding the types of transactions covered by Section 546(e) are now barred in the Nation’s financial center.

This case well illustrates how the Second Circuit’s decision threatens fundamental creditor-protection policies. The Petitioners here are retirees and noteholders who remain owed more than \$2 billion after the Tribune LBO. The UCC did not assert claims for constructive fraudulent conveyance. Thus, after the bankruptcy court lifted the automatic stay, the individual creditors challenged the payments as constructive fraudulent conveyances long recognized as unlawful under state law. Because of the decision

below, those creditors have no recourse—all because the Second Circuit elevated a single perceived policy goal over all others.

This Court should grant review to resolve the Second Circuit’s conflict with this Court’s precedents and to confirm that Section 546(e) does not impliedly preempt creditors’ state-law fraudulent-conveyance actions.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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September 2016

APPENDIX A

13-3992-cv (L)

**In re: Tribune Company Fraudulent
Conveyance Litigation**

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

August Term, 2014

(Argued: November 5, 2014 Decided: March 29, 2016)

Docket Nos. 13-3992-cv; 13-3875-cv; 13-4178-cv; 13-
4196-cv

IN RE: TRIBUNE COMPANY FRAUDULENT
CONVEYANCE LITIGATION

NOTE HOLDERS, Deutsche Bank Trust Company
Americas, Law Debenture Trust Company of New
York, Wilmington Trust Company, INDIVIDUAL
RETIREEES, William A. Niese, on behalf of a putative
class of Tribune Company retirees,

Plaintiffs-Appellants-Cross-Appellees,

MARK S. KIRSCHNER, as Litigation Trustee for the
Tribune Litigation Trust,

Plaintiff,

TENDERING PHONES HOLDERS, Citadel Equity
Fund Ltd., Camden Asset Management LLP and
certain of their affiliates,

Plaintiffs-Intervenors,

v.

LARGE PRIVATE BENEFICIAL OWNERS,
FINANCIAL INSTITUTION HOLDERS,
FINANCIAL INSTITUTION CONDUITS, Merrill
Lynch, Pierce, Fenner & Smith, Inc., on behalf of a
putative class of former Tribune Company
shareholders, PENSION FUNDS, including public,
private, and Taft Hartley Funds, INDIVIDUAL
BENEFICIAL OWNERS, Mario J. Gabelli, on behalf
of a putative class of former Tribune Company
shareholders, MUTUAL FUNDS, AT-LARGE,
ESTATE OF KAREN BABCOCK, PHILLIP S.
BABCOCK, DOUGLAS BABCOCK, DEFENDANTS
LISTED ON EXHIBIT B,

Defendants-Appellees-Cross-Appellants,

CURRENT AND FORMER DIRECTORS AND
OFFICERS, Betsy D. Holden, Christopher Reyes,
Dudley S. Taft, Enrique Hernandez, Jr., Miles D.
White, Robert S. Morrison, William A. Osborn, Harry

Amsden, Stephen D. Carver, Dennis J. FitzSimons, Robert Gremillion, Donald C. Grenesko, David Dean Hiller, Timothy J. Landon, Thomas D. Leach, Luis E. Le, Mark Hianik, Irving Quimby, Crane Kenney, Chandler Bigelow, Daniel Kazan, Timothy Knight, Thomas Finke, SAM ZELL AND AFFILIATED ENTITIES, EGI-TRB, LLC, Equity Group Investments, LLC, Sam Investment Trust, Samuel Zell, Tower CH, LLC, Tower DC, LLC, Tower DL, LLC, Tower EH, LLC, Tower Gr, LARGE SHAREHOLDERS, Chandler Trusts and their representatives, FINANCIAL ADVISORS, Valuation Research Corporation, Duff & Phelps, LLC, Morgan Stanley & Co. Inc. and Morgan Stanley Capital Services, Inc., GreatBanc Trust Company, Citigroup Global Markets, Inc., CA PUBLIC EMPLOYEE RETIREMENT SYSTEM, CALPERS, UNIVERSITY OF CA REGENTS, T. ROWE PRICE ASSOCIATES, INC., MORGAN KEEGAN & COMPANY, INC., NTCA, DIOCESE OF TRENTON-PENSION FUND, FIRST ENERGY SERVICE COMPANY, MARYLAND STATE RETIREMENT AND PENSION SYSTEM, T BANK LCV QP, T BANK-LCV-PT, JAPAN POST INSURANCE, CO., LTD., SERVANTS OF RELIEF FOR INCURABLE CANCER (AKA DOMINICAN SISTERS OF HAWTHORNE), NEW LIFE INTERNATIONAL, NEW LIFE INTERNATIONAL TRUST, SALVATION ARMY, SOUTHERN TERRITORIAL HEADQUARTERS, CITY OF PHILADELPHIA EMPLOYEES, OHIO CARPENTERS' MIDCAP (AKA OHIO CARPENTERS' PENSION FUND), TILDEN H. EDWARDS, JR., MALLOY AND EVANS, INC., BEDFORD OAK PARTNERS, LP,

DUFF AND PHELPS LLC, DURHAM J. MONSMA,
CERTAIN TAG-ALONG DEFENDANTS, MICHAEL
S. MEADOWS, WIRTZ CORPORATION,

Defendants.*

Before: WINTER, DRONEY, Circuit Judges, and
HELLERSTEIN, District Judge.**

Appeal from a dismissal by the United States District Court for the Southern District of New York (Richard J. Sullivan, Judge), of state law, constructive fraudulent conveyance claims brought by creditors' representatives against the Chapter 11 debtor's former shareholders, who were cashed out in an LBO. The district court held that plaintiffs lacked statutory standing under the Bankruptcy Code. We hold that appellants have statutory standing but affirm on the ground that appellants' claims are preempted by Section 546(e) of that Code.

ROY T. ENGLERT, JR.
(Lawrence S. Robbins, Ariel N.
Lavinbuk, Daniel N. Lerman,
Shai D. Bronshtein, Robbins,
Russell, Englert, Orseck,
Untereiner & Sauber LLP,
Washington, DC, Pratik A. Shah,
James E. Tysse, Z.W. Julius

* The Clerk of the Court is instructed to conform the caption in accordance with this opinion.

** The Honorable Alvin K. Hellerstein, of the Southern District of New York, sitting by designation.

Chen, Akin Gump Strauss Hauer & Feld LLP, Washington, DC, David M. Zensky, Mitchell Hurley, Deborah J. Newman, Akin Gump Strauss Hauer & Feld LLP, New York, NY, Robert J. Lack & Hal Neier, Friedman Kaplan Seiler & Adelman LLP, New York, NY, Daniel M. Scott & Kevin M. Magnuson, Kelley, Wolter & Scott, P.A., Minneapolis, MN, David S. Rosner & Sheron Korpus, Kasowitz Benson Torres & Friedman LLP, New York, NY, Joseph Aronauer, Aronauer Re & Yudell, LLP, New York, NY, on the brief), Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP, Washington, DC, for Plaintiffs-Appellants-Cross-Appellees Note Holders.

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Appellants Large Private
Beneficial Owners.

PHILIP D. ANKER (Alan E. Schoenfeld, Adriel I. Cepeda Derieux, Pablo G. Kapusta, Wilmer Cutler Pickering Hale and Dorr LLP, New York, NY, Sabin Willett & Michael C. D'Agnostino, Bingham McCutchen LLP, Boston, MA, Joel W. Millar, Washington, DC, on the brief), Wilmer Cutler Pickering Hale and Dorr LLP, New York, NY, for Defendants-Appellees-Cross-Appellants Financial Institution Holders.

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DOUGLAS HALLWARD-DRIEMEIER, Ropes & Gray LLP, Washington, DC, D. Ross Martin, Ropes & Gray LLP, New York, NY, Matthew L. Fornshell, Ice Miller LLP, Columbus, OH, for

Defendants-Appellees-Cross-Appellants Pension Funds.

Andrew J. Entwistle, Entwistle & Cappucci, LLP, New York, NY, David N. Dunn, Potter Stewart, Jr. Law Offices, Brattleboro, VT, Mark A. Neubauer, Steptoe & Johnson LLP, Los Angeles, CA, for Defendants-Appellees-Cross-Appellants Individual Beneficial Owners.

Michael S. Doluisio & Alexander Bilus, Dechert LLP, Philadelphia PA, Steven R. Schoenfeld, Robinson & Cole LLP, New York, NY, for Defendants-Appellees-Cross-Appellants Mutual Funds.

Alan J. Stone & Andrew M. LeBlanc, Milbank, Tweed, Hadley & McCloy LLP, New York, NY, for Defendant-Appellee-Cross-Appellant At-Large.

Gary Stein, David K. Momborquette, William H. Gussman, Jr., Schulte Roth & Zabel LLP, New York, NY, for Defendants-Appellees-Cross-Appellants Defendants Listed on Exhibit B.

Kevin Carroll, Securities Industry and Financial Markets Association, Washington, DC, Holly K. Kulka, NYSE Euronext, New York, NY, Marshall H. Fishman, Timothy P. Harkness, David Y. Livshiz, Freshfields Bruckhaus Deringer US LLP, New York, NY, for Amici Curiae Securities Industry and Financial Markets Association, International Swaps and Derivatives Association, Inc., and the NYSE Euronext.

Michael A. Conley, John W. Avery, Tracey A. Hardin, Benjamin M. Vetter, Securities and Exchange Commission, Washington, DC, for Amicus Curiae Securities and Exchange Commission.

WINTER, Circuit Judge:

Representatives of certain unsecured creditors of the Chapter 11 debtor Tribune Company appeal from Judge Sullivan's grant of a motion to dismiss their state law, constructive fraudulent conveyance claims brought against Tribune's former shareholders. Appellants seek to recover an amount sufficient to satisfy Tribune's debts to them by avoiding (recovering) payments by Tribune to shareholders that purchased all of its stock. The payments

occurred in a transaction commonly called a leveraged buyout (“LBO”),¹ soon after which Tribune went into Chapter 11 bankruptcy. Appellants appeal the district court’s dismissal for lack of statutory standing, and appellees cross-appeal from the district court’s rejection of their argument that appellants’ claims are preempted.²

We address two issues: (i) whether appellants are barred by the Bankruptcy Code’s automatic stay provision from bringing state law, constructive fraudulent conveyance claims while avoidance proceedings against the same transfers brought by a party exercising the powers of a bankruptcy trustee on an intentional fraud theory are ongoing; and (ii) if not, whether the creditors’ state law, constructive fraudulent conveyance claims are preempted by Bankruptcy Code Section 546(e).

On issue (i), we hold that appellants are not barred by the Code’s automatic stay because they have been freed from its restrictions by orders of the bankruptcy court and by the debtors’ confirmed reorganization plan. On issue (ii), the subject of appellees’ cross-appeal, we hold that appellants’

¹ In a typical LBO, a target company is acquired with a significant portion of the purchase price being paid through a loan secured by the target company’s assets.

² Because the issue has no effect on our disposition of this matter, we do not pause to consider whether a cross-appeal was necessary for appellees to raise the preemption issues in this court, but, for convenience purposes, we sometimes refer to those issues by the term cross-appeal.

claims are preempted by Section 546(e). That Section shields from avoidance proceedings brought by a bankruptcy trustee transfers by or to financial intermediaries effectuating settlement payments in securities transactions or made in connection with a securities contract, except through an intentional fraudulent conveyance claim.

We therefore affirm.

BACKGROUND

a) The LBO

Tribune Media Company (formerly known as “Tribune Company”) is a multimedia corporation that, in 2007, faced deteriorating financial prospects. Appellee Samuel Zell, a billionaire investor, proposed to acquire Tribune through an LBO. In consummating the LBO, Tribune borrowed over \$11 billion secured by its assets. The \$11 billion plus, combined with Zell’s \$315 million equity contribution, was used to refinance some of Tribune’s pre-existing bank debt and to cash out Tribune’s shareholders for over \$8 billion at a premium price -- above its trading range -- per share. It is undisputed that Tribune transferred the over \$8 billion to a “securities clearing agency” or other “financial institution,” as those terms are used in Section 546(e), acting as intermediaries in the LBO transaction. Those intermediaries in turn paid the funds to the shareholders in exchange for their shares that were then returned to Tribune. Appellants seek to satisfy Tribune’s debts to them by avoiding Tribune’s payments to the shareholders.

Appellants do not seek money from the intermediaries. See Note 8, infra.

b) Bankruptcy Proceedings

On December 8, 2008, with debt and contingent liabilities exceeding its assets by more than \$3 billion, Tribune and nearly all of its subsidiaries filed for bankruptcy under Chapter 11 in the District of Delaware. A trustee was not appointed, and Tribune and its affiliates continued to operate the businesses as debtors in possession. See 11 U.S.C. § 1107(a) (“Subject to any limitations on a trustee . . . a debtor in possession shall have all the rights . . . , and powers, and shall perform all the functions and duties . . . of a trustee . . .”). In discussing the powers of a bankruptcy trustee that can be exercised by a trustee or parties designated by a bankruptcy court, we shall refer to the trustee or such parties as the “trustee et al.”

The bankruptcy court appointed an Official Committee of Unsecured Creditors (the “Committee”) to represent the interests of unsecured creditors. In November 2010, alleging that the LBO-related payments constituted intentional fraudulent conveyances, the Committee commenced an action under Code Section 548(a)(1)(A) against the cashed out Tribune shareholders, various officers, directors, financial advisors, Zell, and others alleged to have benefitted from the LBO. An intentional fraudulent conveyance is defined as one in which there was “actual intent to hinder, delay, or defraud” a creditor. 11 U.S.C. § 548(a)(1)(A).

In June 2011, two subsets of unsecured creditors filed state law, constructive fraudulent conveyance claims in various federal and state courts. The plaintiffs, the appellants before us, were: (i) the Retiree Appellants, former Tribune employees who hold claims for unpaid retirement benefits and (ii) the Noteholder Appellants, the successor indenture trustees for Tribune's pre-LBO senior notes and subordinated debentures. A constructive fraudulent conveyance is, generally speaking, a transfer for less than reasonably equivalent value made when the debtor was insolvent or was rendered so by the transfer. See Picard v. Fairfield Greenwich Ltd., 762 F.3d 199, 208-09 (2d Cir.15 2014).

Before bringing these actions, appellants moved the bankruptcy court for an order stating that: (i) after the expiration of the two-year statute of limitations period during which the Committee was authorized to bring avoidance actions under 11 U.S.C. § 546(a), eligible creditors had regained the right to prosecute their creditor state law claims; and (ii) the automatic stay imposed by Code Section 362(a) was lifted solely to permit the immediate filing of their complaint. In support of that motion, the Committee argued that, under Section 546(a), the "state law constructive fraudulent conveyance transfer claims ha[d] reverted to individual creditors" and that the "creditors should consider taking appropriate actions to preserve those claims." Statement of the Official Committee of Unsecured Creditors in Supp. of Mot. 3, In re Tribune Co., No 08-13141 (KJC) (Bankr. D. Del. Mar. 17, 2011).

In April 2011, the bankruptcy court lifted the Code's automatic stay with regard to appellants' actions. The court reasoned that because the Committee had elected not to bring the constructive fraudulent conveyance actions within the two-year limitations period following the bankruptcy petition imposed by Section 544, fully discussed infra, the unsecured creditors "regained the right, if any, to prosecute [such claims]." J. App'x at 373. Therefore, the court lifted the Section 362(a) automatic stay "to permit the filing of any complaint by or on behalf of creditors on account of such Creditor [state law fraudulent conveyance] Claims." Id. The court clarified, however, that it was not resolving the issues of whether the individual creditors had statutory standing to bring such claims or whether such claims were preempted by Section 546(e).

On March 15, 2012, the bankruptcy court set an expiration date of June 1, 2012 for the remaining limited stay on the state law, fraudulent conveyance claims. In July 2012, the bankruptcy court ordered confirmation of the proposed Tribune reorganization plan. The plan terminated the Committee and transferred responsibility for prosecuting the intentional fraudulent conveyance action to an entity called the Litigation Trust. The confirmed plan also provided that the Retiree and Noteholder Appellants could pursue "any and all LBO-Related Causes of Action arising under state fraudulent conveyance law," except for the federal intentional fraudulent conveyance and other LBO-related claims pursued by the Litigation Trust. J. App'x at 643. Under the plan, the Retiree and Noteholder Appellants

recovered approximately 33 cents on each dollar of debt. The plan was scheduled to take effect on December 31, 2012, the date on which Tribune emerged from bankruptcy.

c) District Court Proceedings

Appellants' various state law, fraudulent conveyance complaints alleged that the LBO payments, made through financial intermediaries as noted above, were for more than the reasonable value of the shares and made when Tribune was in distressed financial condition. Therefore, the complaints concluded, the payments were avoidable by creditors under the laws of various states. These actions were later consolidated with the Litigation Trust's ongoing federal intentional fraud claims in a multi-district litigation proceeding that was transferred to the Southern District of New York. In re: Tribune Co. Fraudulent Conveyance Litig., 831 F. Supp. 2d 1371 (J.P.M.L. 2011).

After consolidation, the Tribune shareholders moved to dismiss appellants' claims. The district court granted the motion on the ground that the Bankruptcy Code's automatic stay provision deprived appellants of statutory standing to pursue their claims so long as the Litigation Trustee was pursuing the avoidance of the same transfers, albeit under a different legal theory. In re Tribune Co. Fraudulent Conveyance Litig., 499 B.R. 310, 325 (S.D.N.Y. 2013). The court held that the bankruptcy court had only "conditionally lifted the stay." Id. at 314.

The district court rejected appellees' preemption argument based on Section 546(e). That Section bars a trustee et al. from exercising its avoidance powers under Section 544 to avoid transfers by the debtor to specified financial intermediaries, e.g. a "securities clearing agency" or "financial institution," that is a "settlement payment" in a securities transaction or is a transfer "in connection with a securities contract." The district court held that Section 546(e) did not bar appellants' actions because: (i) Section 546(e)'s prohibition on avoiding the designated transfers applied only to a bankruptcy trustee et al., id. at 315-16; and (ii) Congress had declined to extend Section 546(e) to state law, fraudulent conveyance claims brought by creditors, id. at 318.

DISCUSSION

We review de novo the district court's grant of appellees' motion to dismiss. See Mary Jo C. v. N.Y. State & Local Ret. Sys., 707 F.3d 144, 151 (2d Cir. 2013). The relevant facts being undisputed for purposes of this proceeding, only issues of law are before us.

a) Statutory Standing to Bring the Claims

We first address the district court's dismissal of appellants' claims on the ground that they lacked standing to bring them because of Section 362(a)(1).³

³ The term "standing" has been used to describe issues arising in bankruptcy proceedings when individual creditors sue to recover funds from third parties to satisfy amounts owed to them by the debtor, and that action is defended on the ground

In re Tribune, 499 B.R. at 325. When a bankruptcy action is filed, any “action or proceeding against the debtor” is automatically stayed by Section 362(a). The purpose of the stay is “to protect creditors as well as the debtor,” Ostano Commerzanstalt v. Telewide Sys., Inc., 790 F.2d 206, 207 (2d Cir. 1986) (per curiam), by avoiding wasteful, duplicative, individual actions by creditors seeking individual recoveries from the debtor’s estate, and by ensuring an equitable distribution of the debtor’s estate. See In re McMullen, 386 F.3d 320, 324 (1st Cir. 2004) (noting that Section 362(a)(1), among other things, “safeguard[s] the debtor estate from piecemeal dissipation . . . ensur[ing] that the assets remain within the exclusive jurisdiction of the bankruptcy court pending their orderly and equitable distribution among the creditors”). Although fraudulent conveyance actions are against third parties rather than a debtor, there is caselaw, discussed infra, stating that the automatic stay applies to such actions.⁴ See In re Colonial Realty Co., 980 F.2d 125, 131 (2d Cir. 1992).

that the recovery seeks funds that are recoverable under the Code only by a representative of all creditors. St. Paul Fire & Marine Ins. Co. v. PepsiCo, Inc., 884 F.2d 688, 696-97 (2d Cir. 1989), disapproved of on other grounds by In re Miller, 197 B.R. 810 (W.D.N.C. 1996). The use of the term “standing” is based on the suing creditors’ need to demonstrate an injury other than one redressable under the Code only by the trustee et al. Id. at 704.

⁴ The implications of applying the automatic stay to fraudulent conveyance actions are discussed infra.

The district court ruled that Section 362's automatic stay provision deprived appellants of statutory standing to bring their claims because the Litigation Trustee was still pursuing an intentional fraudulent conveyance action challenging the same transfers under Section 548(a)(1)(A). In re Tribune, 499 B.R. at 322-23. We disagree. The Bankruptcy Code empowers a bankruptcy court to release parties from the automatic stay "for cause" shown. In re Bogdanovich, 292 F.3d 104, 110 (2d Cir. 2002) (quoting 11 U.S.C. § 362(d)(1)). Once a creditor obtains "a grant of relief from the automatic stay" under Section 362(d), it may "press its claims outside of the bankruptcy proceeding." St. Paul Fire & Marine Ins. Co. v. PepsiCo, Inc., 884 F.2d 688, 702 (2d Cir. 1989), disapproved of on other grounds by In re Miller, 197 B.R. 810 (W.D.N.C. 1996).

In the present matter, the bankruptcy court granted appellants relief from the automatic stay on three occasions. On April 25, 2011, the bankruptcy court granted appellants relief "to permit the filing of any complaint by or on behalf of creditors on account of such Creditor [state law fraudulent conveyance] Claims." J. App'x at 373. A second order, entered on June 28, 2011, clarified that "neither the automatic stay of [Section 362] nor the provisions of the [original lift-stay order]" barred the parties in the state law actions from consolidating and coordinating these actions. J. App'x at 376. And the bankruptcy court's third order, entered on March 15, 2012, set an expiration date of June 1, 2012, for the "stay imposed on the state law constructive fraudulent conveyance actions." J. App'x at 521.

None of the Tribune shareholders filed objections to these orders.

Finally, the reorganization plan, confirmed by the bankruptcy court and in all pertinent respects an order of that court, expressly allowed appellants to pursue “any and all LBO-Related Causes of Action arising under state fraudulent conveyance law.” J. App’x at 643. Section 5.8.2 of the plan provided that “nothing in this Plan shall or is intended to impair” the rights of creditors to attempt to pursue disclaimed state law avoidance claims. J. App’x at 695.

Thus, under both the bankruptcy court’s orders and the confirmed reorganization plan, if appellants had actionable state law, constructive fraudulent conveyance claims, assertion of those claims was no longer subject to Section 362’s automatic stay. See, e.g., In re Heating Oil Partners, LP, 422 F. App’x 15, 18 (2d Cir. 2011) (holding that the automatic stay terminates at discharge); United States v. White, 466 F.3d 1241, 1244 (11th Cir. 2006) (similarly recognizing that the automatic stay terminates when “a discharge is granted”).

For the foregoing reasons, we hold that appellants’ claims are not barred by Section 362.

b) Section 546(e) and Preemption

We turn now to the issue raised by the cross-appeal: whether appellants’ claims are preempted because they conflict with Code Section 546(e).

1. Conflict-Preemption Law

Under the Supremacy Clause, Article VI, Clause 2 of the Constitution, federal law prevails when it conflicts with state law. Arizona v. United States, 132 S. Ct. 2492, 2500 (2012).

As discussed throughout this opinion, Section 546(e)'s reference to limiting avoidance by a trustee provides appellants with a plain language argument that only a trustee et al., and not creditors acting on their own behalf, are barred from bringing state law, constructive fraudulent avoidance claims. However, as discussed infra, we believe that the language of Section 546(e) does not necessarily have the meaning appellants ascribe to it. Even if that meaning is one of multiple reasonable constructions of the statutory scheme, it would not necessarily preclude preemption because a preemptive effect may be inferred where it is not expressly provided.

Under the implied preemption doctrine,⁵ state laws are “pre-empted to the extent of any conflict

⁵ We see no need for a full discussion of various modes of analysis used to determine federal preemption, i.e., “express” preemption, Chamber of Commerce v. Whiting, 131 S. Ct. 1968, 1977 (2011), “field” preemption, Arizona v. United States, 132 S. Ct. 2492, 2502 (2012), or even that branch of “implied” preemption that requires a showing of “impossibility” of complying with both state and federal law, id. at 2501. The only relevant analysis in the present matter is preemption inferred from a conflict between state law and the purposes of federal law, as discussed in the text.

with a federal statute. Such a conflict occurs . . . when [] state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” Hillman v. Maretta, 133 S. Ct. 1943, 1949-50 (2013) (citations and internal quotation marks omitted); accord In re Methyl Tertiary Butyl Ether (MTBE) Prods. Liab. Litig., 725 F.3d 65, 97 (2d Cir. 2013) cert. denied sub nom. Exxon Mobil Corp. v. City of New York, 134 S. Ct. 1877 (2014) (courts will find implied preemption when “state law directly conflicts with the structure and purpose of a federal statute”) (citation and internal quotation marks omitted).

Appellants argue that a recognized presumption against preemption limits the implied preemption doctrine. They argue that Section 546(e) preempts creditors’ state law, fraudulent conveyance claims only if the claims would do “‘major damage’ to ‘clear and substantial’ federal interests.” Resp. & Reply Br. of Pls.-Appellants-Cross-Appellees 45 (quoting Hillman, 133 S. Ct. 1943, 1950 (2013) (citation omitted)). The presumption against inferring preemption is premised on federalism grounds and, therefore, weighs most heavily where the particular regulatory area is “traditionally the domain of state law.” Hillman, 133 S. Ct. at 1950; see also Madeira v. Affordable Hous. Found., Inc., 469 F.3d 219, 241 (2d Cir. 2006) (“The mere fact of ‘tension’ between federal and state law is generally not enough to establish an obstacle supporting preemption, particularly when the state law involves the exercise of traditional police power.”). According to appellants, the presumption against preemption

fully applies in the present context because fraudulent conveyance claims are “among ‘the oldest [purposes] within the ambit of the police power.’” Resp. & Reply Br. of Pls.-Appellants-Cross-Appellees 36 (quoting California v. Zook, 336 U.S. 725, 734 (1949)).

Preemption is always a matter of congressional intent, even where that intent must be inferred. See Cipollone v. Liggett Grp., Inc., 505 U.S. 504, 516 (1992) (congressional intent is the “ultimate touchstone of pre-emption analysis”) (quoting Malone v. White Motor Corp., 435 U.S. 497, 504 (1978)) (internal quotation marks omitted); N.Y. SMSA Ltd. P’ship v. Town of Clarkstown, 612 F.3d 97, 104 (2d Cir. 2010) (“The key to the preemption inquiry is the intent of Congress.”). As in the present matter, the presumption against preemption usually goes to the weight to be given to the lack of an express statement overriding state law.

The presumption is strongest when Congress is legislating in an area recognized as traditionally one of state law alone. See Hillman, 133 S. Ct. at 1950 (stating that because “[t]he regulation of domestic relations is traditionally the domain of state law . . . [t]here is [] a presumption against pre-emption”) (internal quotation marks and citation omitted). However, the present context is not such an area. To understate the proposition, the regulation of creditors’ rights has “a history of significant federal presence.” United States v. Locke, 529 U.S. 89, 90 (2000).

Congress's power to enact bankruptcy laws was made explicit in the Constitution as originally enacted, Art. 1, § 8, cl. 4, and detailed, preemptive federal regulation of creditors' rights has, therefore, existed for over two centuries. Charles Jordan Tabb, The History of the Bankruptcy Laws in the United States, 3 Am. Bankr. Inst. L. Rev. 5, 7 (1995). Once a party enters bankruptcy, the Bankruptcy Code constitutes a wholesale preemption of state laws regarding creditors' rights. See Eastern Equip. and Servs. Corp. v. Factory Point Nat. Bank, Bennington, 236 F.3d 117, 120 (2d Cir. 2001) ("The United States Bankruptcy Code provides a comprehensive federal system of penalties and protections to govern the orderly conduct of debtors' affairs and creditors' rights."); In re Miles, 430 F.3d 1083, 1091 (9th Cir. 2005) ("Congress intended the Bankruptcy Code to create a whole scheme under federal control that would adjust all of the rights and duties of creditors and debtors alike . . .").

Consider, for example, the present proceeding. While the issue before us is often described as whether Section 546(e) preempts state fraudulent conveyance laws, Resp. & Reply Br. of Pls.-Appellants-Cross-Appellees 33, that is a mischaracterization. Appellants' state law claims were preempted when the Chapter 11 proceedings commenced and were not dismissed. Appellants' own arguments posit that those claims were, at the very least, stayed by Code Section 362. Whether, as appellants argue, they were restored in full after two years, see 11 U.S.C. § 546(a)(1)(A), or by order of the bankruptcy court, see 11 U.S.C. § 349(b)(3), is hotly

disputed. But if they were restored, it was by force of federal law.

Once Tribune entered bankruptcy, the creditors' avoidance claims were vested in the federally appointed trustee et al. 11 U.S.C. § 544(b)(1). A constructive fraudulent conveyance action brought by a trustee et al. under Section 544 is a claim arising under federal law. See In re Intelligent Direct Mktg., 518 B.R. 579, 587 (E.D. Cal. 2014); In re Trinsum Grp., Inc., 460 B.R. 379, 387-88 (S.D.N.Y. 2011); In re Sunbridge Capital, Inc., 454 B.R. 166, 169 n.16 (Bankr. D. Kan. 2011); In re Charys Holding Co., Inc., 443 B.R. 628, 635-36 (Bankr. D. Del. 2010). Although such a claim borrows applicable state law standards regarding avoiding the transfer in question, see Universal Church v. Geltzer, 463 F.3d 218, 222 n.1 (2d Cir. 2006), the claim has its own statute of limitations, 11 U.S.C. § 546(a)(1)(A), measure of damages, see 11 U.S.C. § 550, and standards for distribution, 11 U.S.C. § 726. A disposition of this federal law claim extinguishes the right of creditors to bring state law, fraudulent conveyance claims. See St. Paul Fire, 884 F.2d at 701 disapproved of on other grounds by In re Miller, 197 B.R. 810 (W.D.N.C. 1996) (noting that "creditors are bound by the outcome of the trustee's action"); see also In re PWS Holding Corp., 303 F.3d 308, 314-15 (3d Cir. 2002) (barring creditor's state law, fraudulent transfer claims after trustee released § 544 claims). And, if creditors are allowed by a bankruptcy court, trustee, or, as appellants argue, by the Bankruptcy Code, to bring state law actions in their own name, that permission is a matter of grace

granted under federal authority. The standards for granting that permission, moreover, have everything to do with the Bankruptcy Code's balancing of debtors' and creditors' rights, In re Coltex Loop Cent. Three Partners, L.P., 138 F.3d 39, 44 (2d Cir. 1998), or rights among creditors, United States v. Ron Pair Enters, Inc., 489 U.S. 235, 248 (1989), and nothing to do with the vindication of state police powers.

We also note here, and discuss further infra, that the policies reflected in Section 546(e) relate to securities markets, which are subject to extensive federal regulation. The regulation of these markets has existed and grown for over eighty years and reflects very important federal concerns.

In the present matter, therefore, there is no measurable concern about federal intrusion into traditional state domains. Our bottom line is that the issue before us is one of inferring congressional intent from the Code, without significant countervailing pressures of state law concerns.

2. The Language of Section 546(e)

Section 544(b) empowers a trustee et al. to avoid a “transfer . . . [by] the debtor . . . voidable under applicable law by a[n] [unsecured] creditor.” Section 548(a) also provides the trustee et al. with independent federal intentional, 11 U.S.C. § 548(a)(1)(A), and constructive fraudulent conveyance claims, 11 U.S.C. § 548(a)(1)(B).

Section 546(e) provides in pertinent part:

Notwithstanding sections 544, . . . 548(a)(1)(B) . . . of this title, the trustee may not avoid a transfer that is a . . . settlement payment . . . made by or to (or for the benefit of) a . . . stockbroker, financial institution, financial participant, or securities clearing agency, or that is a transfer made by or to (or for the benefit of) a . . . stockbroker, financial institution, financial participant, or securities clearing agency, in connection with a securities contract . . . except under section 548(a)(1)(A). . . .

Id. § 546(e). Section 546(e) thus expressly prohibits trustees et al. from using their Section 544(b) avoidance powers and (generally) Section 548 against the transfers specified in Section 546(e). However, Section 546(e) creates an exception to that prohibition for claims brought by trustee et al. under Section 548(a)(1)(A) that, as noted, establishes a federal avoidance claim to be brought by a trustee et al. based on an intentional fraud theory. As discussed supra, the Litigation Trust has brought a Section 548(a)(1)(A) claim against the same transfers challenged by appellants' actions before us on this appeal. That claim is still pending.

The language of Section 546(e) covers all transfers by or to financial intermediaries that are "settlement payment[s]" or "in connection with a securities contract." Transfers in which either the transferor or transferee is not such an intermediary are clearly included in the language. The Section does not distinguish between kinds of transfers, e.g., settlements of ordinary day-to-day trading, LBOs, or

mergers in which shareholders of one company are involuntarily cashed out. So long as the transfer sought to be avoided is within the language quoted above, the Section includes avoidance proceedings in which the intermediary would escape a damages judgment. But see In re Lyondell Chem. Co., 503 B.R. 348, 372-73 (Bankr. S.D.N.Y. 2014), as corrected (Jan. 16, 2014), that Section 546(e) does not include “LBO payments to stockholders at the very end of the asset transfer chain, where the stockholders are the ultimate beneficiaries of the constructively fraudulent transfers, and can give the money back to injured creditors with no damage to anyone but themselves.”

3. Appellants’ Legal Theory

Appellants’ state law, constructive fraudulent conveyance claims purport to be brought under mainstream bankruptcy procedures directly mandated by the Code. However, an examination of the Code as a whole, in contrast with an isolated focus on the word “trustee” in Section 546(e), reveals that appellants’ theory relies upon adhering to statutory language only when opportune and resolving various ambiguities in a way convenient to that theory. Even then, their legal theory results in anomalies and inconsistencies with parts of the Code. The consequence of those ambiguities, anomalies, and conflicts is that a reader of Section 546(e), at the time of enactment, would not have necessarily concluded that the reference only to a trustee et al. meant that creditors may at some point bring state law claims seeking the very relief barred

to the trustee et al. by Section 546(e). Its meaning, therefore, is not plain.

(i) Appellants' Theory of Fraudulent Conveyance Avoidance Proceedings

Appellants' theory goes as follows. When a debtor enters bankruptcy, all "legal or equitable interests of the debtor in property," 11 U.S.C. § 541(a)(1), vest in the debtor's bankruptcy estate. This property includes legal claims that could have been brought by the debtor. See U.S. ex rel. Spicer v. Westbrook, 751 F.3d 354, 361-62 (5th Cir. 2014) ("The phrase 'all legal or equitable interests' includes legal claims - whether based on state or federal law."). Therefore, "the Trustee is conferred with the authority to represent all creditors and the Debtor's estate and with the sole responsibility of bringing actions on behalf of the Debtor's estate to marshal assets for the estate's creditors." In re Stein, 314 B.R. 306, 311 (D.N.J. 2004). However, fraudulent conveyance claims proceed on a theory that an insolvent debtor may not make what are essentially gifts that deprive creditors of assets available to pay debts. See Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc., 527 U.S. 308, 322 (1999). Therefore, before a bankruptcy takes place, fraudulent conveyance claims belong to creditors rather than to the debtor. As a consequence, Section 544(b)(1) provides that a bankruptcy trustee may avoid "any transfer of an interest of the debtor . . . that is voidable under applicable law by a creditor holding an unsecured claim." 11 U.S.C. § 544(b)(1). The responsibility of the trustee et al. is to "step into the shoes of a

creditor under state law and avoid any transfers such a creditor could have avoided.” Univ. Church v. Geltzer, 463 F.3d 218, 222 n.1 (2d Cir. 2006).

The trustee et al., however, is subject to a statute of limitations that requires such claims to be brought within two years of the commencement of the bankruptcy proceeding. See 11 U.S.C. § 546(a)(1)(A). Appellants infer from this statute of limitations that if the trustee et al. fails to act to enforce such claims during that two-year period, the claims revert to creditors who may then pursue their own state law, fraudulent conveyance actions. Resp. & Reply Br. of Pls.-Appellants-Cross-Appellees 1. This position assumes that, although the power to bring such actions is clearly vested in the trustee et al. when the bankruptcy proceeding begins, if the power is not exercised, it returns in full flower to the creditors after the bankruptcy ends or after two years.

Appellants’ theory also is that their fraudulent conveyance claims were only stayed under Section 362(a), rather than extinguished when assumed by the trustee on behalf of the bankrupt estate by the trustee et al. under Section 544, and could be asserted by them as creditors when the Section 362(a) stay was lifted. Accordingly, appellants argue, when the Committee did not bring constructive fraudulent conveyance actions against the LBO transfers by December 8, 2010, appellants regained the right to bring their own state law actions. See Resp. & Reply Br. of Pls.-Appellants-Cross Appellees 6. Moreover, they correctly note that Section 362’s automatic stay was, as discussed

supra, lifted. In either case -- automatically after two years or by the bankruptcy court's lifting of the stay -- appellants assert that the right to bring state law actions has reverted to them.

(ii) Ambiguities, Anomalies, and Conflicts

When appellants' arguments and their relation to the Code are viewed, as we must view them, in their entirety, In re Boodrow, 126 F.3d 43, 49 (2d Cir. 1997) ("The Supreme Court has thus explained . . . 'we must not be guided by a single sentence or [part] of a sentence [of the Code], but look to the provisions of the whole law, and to its object and policy.'") (quoting Kelly v. Robinson, 479 U.S. 36, 43 (1986)), they reveal material ambiguities, anomalies, and outright conflicts with the purposes of Code Sections 544, 362, and 548, not to mention the outright conflict with Section 546(e) discussed infra.

A critical step in the logic of appellants' theory finds no support in the language of the Code. In particular, the inference that fraudulent conveyance actions revert to creditors if either the two-year statute of limitations passes without an exercise of the trustees' et al. powers under Section 544 or the Section 362(a) stay is lifted by the bankruptcy court has no basis in the Code's language. To begin, the language of the automatic stay provision applies only to actions against "the debtor." 11 U.S.C. § 362. To be sure, there are cases barring fraudulent conveyance actions brought by creditors before the passing of the limitations period or lifting of the stay. See, e.g., In re Crysen/Montenay Energy Co., 902

F.2d 1098, 1101 (2d Cir. 1990). The rationales of these cases vary. Some rely on Section 362(a) on the theory that the fraudulent conveyance claims are the property of the debtors' estate. See In re MortgageAmerica Corp., 714 F.2d 1266, 1275-76 (5th Cir. 1983); Matter of Fletcher, 176 B.R. 445, 452 (Bankr. W.D. Mich. 1995), rev'd and remanded on other grounds sub nom. In re Van Orden, No. 1:95-CV-79, 1995 WL 17903731 (W.D. Mich. Sept. 5, 1995). Some do not mention Section 362(a) and rely on the need to protect trustees' et al. powers to bring Section 544 avoidance actions. See In re Van Diepen, P.A., 236 F. App'x. 498, 502-03 (11th Cir. 2007); In re Clark, 374 B.R. 874, 876 (Bankr. M.D. Ala. 2007); In re Tessmer, 329 B.R. 776, 780 (Bankr. M.D. Ga. 2005). All the caselaw agrees that the trustee et al.'s powers under Section 544 are exclusive, at least until the stay is lifted or the two-year period expires.

Equally important is the fact that the inference of a reversion of fraudulent conveyance claims to creditors drawn from Section 544's statute of limitations is not based on the language of the Code, which says nothing about the reversion of claims vested in the trustee et al. by Section 544. Statutes of limitation usually are intended to limit the assertion of stale claims and to provide peace to possible defendants, Converse v. Gen. Motors Corp., 893 F.2d 513, 516 (2d Cir. 1990), and not to change the identity of the authorized plaintiffs without some express language to that effect. A decisive part of appellants' legal theory thus has no support in the language of the Code.

Even if this gap is assumed not to exist, or can be otherwise traversed, appellants' theory encounters other serious problems. Section 544, vesting avoidance powers in the trustee et al., is intended to simplify proceedings, reduce the costs of marshalling the debtor's assets, and assure an equitable distribution among the creditors. See In re MortgageAmerica Corp., 714 F.2d 1266, 1275-76 (5th Cir. 1983) (noting that "[t]he 'strong arm' provision of the [Bankruptcy] Code, 11 U.S.C. § 544, allows the bankruptcy trustee to step into the shoes of a creditor for the purpose of asserting causes of action under state fraudulent conveyance acts for the benefit of all creditors, not just those who win a race to judgment" and Section 362 helps prevent "[a]ctions for the recovery of the debtor's property by individual creditors under state fraudulent conveyance laws [that] would interfere with [the bankruptcy] estate and with the equitable distribution scheme dependent upon it"). However, these purposes are hardly consistent with the process hypothesized by appellants.

Accepting for purposes of argument appellants' view of the applicable process, Section 362, at the very least, prevented appellants (for a time) from bringing their state law, fraudulent conveyance claims, while Section 546(e) barred the Committee from seeking to enforce or, necessarily, to settle them. Appellants' argument thus seems to posit that their claims are on hold until the trustees et al. decide whether to bring an action they are powerless to bring or to pass on to creditors a power they do not have. In short, it assumes that, when creditors'

avoidance claims are lodged in the trustee et al. and are diminished in that hand by the Code, they reemerge in undiminished form in the hands of creditors after the statute of limitations governing actions by the trustee et al. has run or the bankruptcy court lifts the automatic stay.

In the context of the Code, however, any such process is a glaring anomaly. Section 548(a)(1)(A) vests trustees with a federal claim to avoid the very transfers attacked by appellants' state law claims -- but only on an intentional fraud theory. There is little apparent reason to limit trustees et al. to intentional fraud claims while not extinguishing constructive fraud claims but rather leaving them to be brought later by individual creditors. In particular, enforcement of the intentional fraud claim is undermined if creditors can later bring state law, constructive fraudulent conveyance claims involving the same transfers. Any trustee would have grave difficulty negotiating more than a nominal settlement in the federal action if it cannot preclude state claims attacking the same transfers but not requiring a showing of actual fraudulent intent. Unable to settle, a trustee et al. will be reluctant to expend the estate's resources on vigorously pursuing the federal claim while awaiting the stayed state claims to revert and to be litigated by creditors. As happened in the present matter, the result is that the trustee et al.'s action awaits the pursuit of piecemeal actions by creditors. This is precisely opposite of the intent of the Code's procedures. While a bankruptcy court can reduce the delay by an early lifting of the automatic stay

with regard to constructive fraudulent conveyance actions, that action would underline the anomaly of applying the stay to the bringing of claims that are barred to trustees et al.

Staying ordinary state law, constructive fraudulent conveyance claims by individual creditors while the trustee deliberates is a rational method of avoiding piecemeal litigation and ensuring an equitable distribution of assets among creditors. See MBNA Am. Bank, N.A. v. Hill, 436 F.3d 104, 108 (2d Cir. 2006) (“The objectives of the Bankruptcy Code . . . include . . . ‘the need to protect creditors and reorganiz[e] debtors from piecemeal litigation’”) (quoting Ins. Co. of N. Am. v. NGC Settlement Trust & Asbestos Claims Mgmt. Corp., 118 F.3d 1056, 1069 (5th Cir. 1997)). However, the scheme described by appellants does not resemble this method either in simplicity or in the equitable treatment of creditors.

To rationalize these anomalies, appellants speculate as to -- more accurately, imagine -- a deliberate balancing of interests by Congress. They argue that Congress wanted to balance the need for certainty and finality in securities markets, recognized in Section 546(e), against the need to maximize creditors’ recoveries, recognized in various other provisions. Congress did so, they argue, by limiting only the avoidance powers of trustees et al., not those of individual creditors (save for the stay), in Section 546(e) because actions by trustees et al. are a greater threat to securities markets than are actions by individual creditors. Resp. & Reply Br. of Pls.-Appellants-Cross-Appellees 71. That greater

threat results from the fact that a trustee's power of avoidance is funded by the debtor's estate, see 11 U.S.C. §§ 327, 330, supported by national long-arm jurisdiction, see Fed. R. Bankr. P. 7004(d),(f), and can be used to avoid the entirety of a transfer, Tronox Inc. v. Anadarko Petroleum Corp. (In re Tronox Inc.), 464 B.R. 606, 615-17 (Bankr. S.D.N.Y. 2012) (citing Moore v. Bay, 284 U.S. 4 (1931)). Creditors, in turn, have no such funding, are limited by state jurisdictional rules, and can sue only for their individual losses. See In re Integrated Agri. Inc., 313 B.R. 419, 428 (Bankr. C.D. Ill. 2004). Therefore, appellants argue that a deliberate "balance" was struck by protecting securities markets from trustees' et al. actions while subjecting them to the lesser disruption individual creditors' actions might cause after a two-year stay. Resp. & Reply Br. of Pls.-Appellants-Cross-Appellees 83-85. For a court to upset this delicate balance would constitute judicial intrusion on policy decisions rightfully left to the Congress.

However, the balance described above is an ex post explanation of a legal scheme that appellants must first construct, and then justify as rational, because it is essential to their claims. Although they argue that the scheme was deliberately constructed by Congress, that argument lacks any support whatsoever in the legislative deliberations that led to Section 546(e)'s enactment.

Moreover, appellants' arguments understate the number of creditors who would sue, if allowed, and the corresponding extent of the danger to securities

markets. Creditors may assign their claims and various methods of aggregation can lead to billions of dollars of claims, as here.

(iii) No Plain Meaning

These issues reflect ambiguities as to exactly what is transferred to trustees et al. by Section 544(b)(1). It is clear that trustees et al. own the debtors' estates, which include the debtors' property and legal claims. See 11 U.S.C. § 541(a)(1) (Among other things, the "estate is comprised of . . . all legal or equitable interests of the debtor in property as of the commencement of the case"); U.S. ex rel. Spicer v. Westbrook, 751 F.3d 354, 361-62 (5th Cir. 2014) ("The phrase 'all legal or equitable interests' includes legal claims -- whether based on state or federal law."). Avoidance claims belong to creditors, however, and whether they become the property of the debtors' estates is a debated, and somewhat metaphysical, issue. See Note 7, infra. The issue does have a limited practical bearing on the present matter, however. If the claims asserted by appellants became the property of the debtor's estate upon Tribune's bankruptcy and were thereby limited in the hands of the Committee, their reversion in an unaltered form, whether occurring automatically or by act of the Committee or bankruptcy court, might seem counterintuitive.

Appellants' reliance on the applicability of the automatic stay to their claims would arguably support the "property" view. The stay is intended in part to protect the property rights of the trustee et al. in the debtor's estate. Subjecting avoidance

actions by creditors to the stay has been supported by various courts on the ground that such claims are either the property of the debtor's estate or have an equivalent legal status. See In re MortgageAmerica Corp., 714 F.2d 1266, 1275-76 (5th Cir. 1983); In re Swallen's, Inc., 205 B.R. 879, 882 (Bankr. S.D. Ohio 1997); Matter of Fletcher, 176 B.R. 445, 452 (Bankr. W.D. Mich. 1995).

Whether, and to what degree, fraudulent conveyance claims become the property of a bankrupt estate was, at the time of Section 546(e)'s enactment, and now, anything but clear. The principal Supreme Court precedent held that such claims are the property of the debtor's estate. Trimble v. Woodhead, 102 U.S. 647, 649 (1880). It is a very old decision but has not been expressly overruled. Subsequent court of appeals decisions are bountiful in contradictory statements regarding the property issue. Compare In re Cybergenics Corp., 226 F.3d 237, 241, 246 (3d Cir. 2000) (stating that "fraudulent transfer claims have long belonged to a transferor's creditors, whose efforts to collect their debts have essentially been thwarted as a consequence of the transferor's actions" but also noting that the debtor's "'assets' and 'property of the estate' have different meanings, evidenced in part by the numerous provisions in the Bankruptcy Code that distinguish between property of the estate and property of the debtor, or refer to one but not the other"), and Picard v. Fairfield Greenwich Ltd., 762 F.3d 199, 212 (2d Cir. 2014) ("Our case law is clear that assets targeted by a fraudulent conveyance action do not become property of the debtor's estate

under the Bankruptcy Code until the Trustee obtains a favorable judgment.”), with Cumberland Oil Corp. v. Thropp, 791 F.2d 1037, 1042 (2d Cir. 1986) (noting that causes of action alleging violation of fraudulent conveyance laws would be property of the estate), and Nat’l Tax Credit Partners v. Havlik, 20 F.3d 705, 708-09 (7th Cir. 1994) (“[T]he right to recoup a fraudulent conveyance, which outside of bankruptcy may be invoked by a creditor, is property of the estate that only a trustee or debtor in possession may pursue once a bankruptcy is underway.”).

Use of the term “property” as a short-hand way of suggesting exclusivity has merit, Henry E. Smith, Property and Property Rules, 79 N.Y.U. L. Rev. 1719, 1770-74 (2004), but Section 544(b)(1) does not expressly state whether the bundle of rights transferred can revert. However, we need not resolve either the “property” or the reversion issues. Whether the statutory language has a plain meaning turns on whether a consensus would have existed among reasonable, contemporaneous readers as to meaning of that language in the particular statutory context. See Pettus v. Morgenthau, 554 F.3d 293, 297 (2d Cir. 2009) (“[W]e attempt to ascertain how a reasonable reader would understand the statutory text, considered as a whole.”); Engine Mfrs. Ass’n v. S. Coast Air Quality Mgmt. Dist., 541 U.S. 246, 252-53 (2004) (noting that “[s]tatutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose”) (quoting Park ‘N Fly, Inc. v. Dollar Park & Fly, Inc., 469 U.S. 189, 194 (1985)). If differing views

as to meaning were reasonable at the time of Section 546(e)'s enactment, its meaning is less than plain. See, e.g., Rodriguez v. Cuomo, 953 F.2d 33, 39-40 (2d Cir. 1992).

Appellants' arguments on meaning rely not only on the reference to a trustee's et al. powers but equally, or more so, on a claim of settled law at the time of Section 546(e)'s enactment that creditors' avoidance rights not only revert to creditors but also revert in their original breadth. However, whether fraudulent conveyance claims revert as a matter of law upon a trustee's failure to act was, both at the time Section 546(e) was passed as well as now, unclear, as discussed supra. A contemporaneous reader would not, therefore, necessarily have believed it plain that Section 546(e)'s reference only to a trustee's et al. avoidance claim meant that creditors could bring their own claims.⁶

A contemporaneous reader would also notice that the language of the automatic stay provision does not literally apply to appellants' actions and that no provision for the reversion of claims vested in the trustee et al. by Section 544 exists. As explained supra, having to draw an inference of reversion of rights from that provision's statute of limitations might well have appeared as a leap several bridges too far to such a reader. Indeed, the vesting of avoidance claims in the trustee et al., the lack of

⁶ Our task of determining how a contemporaneous reader would have read Section 546(e) does not depend on the caselaw of one particular circuit.

applicable language in the automatic stay provision, and the lack of a statutory basis for reversion might well have suggested to such a reader that Section 544's vesting of avoidance proceedings in the trustee et al. cut off creditors from any avoidance rights other than a share of the proceeds in bankruptcy.

Even passing these obstacles, the structure of the Code and the relationship of its pertinent sections might have suggested to a contemporaneous reader that altered rights do not revert to creditors unaltered, or to put it another way, a trustee et al. cannot pass on, or "allow" to revert through passivity, a right the trustee et al. does not have. To be sure, contemporaneous readers might have taken other views, including those of appellants, but that is the very definition of ambiguity.

(iv) Conclusion

We need not resolve these issues or even hold that the lack of statutory support, ambiguities, anomalies, or conflicts with purposes of the Code are sufficient to support a preemption holding. They are sufficient, however, to dispel the suggestions found in some discussions of these issues of a clear textual basis for appellants' theory in the Code and an overall consistency with congressional purpose. See In re Lyondell Chem. Co., 503 B.R. 348, 358-59 (Bankr. S.D.N.Y. 2014) as corrected (Jan. 16, 2014); In re: Tribune Co. Fraudulent Conveyance Litig., 499 B.R. at 315. We also need not issue a decision that affects fraudulent conveyance actions brought by creditors whose claims are not subject to Section 546(e). Our ensuing discussion concludes that the

purposes and history of that Section necessarily reflect an intent to preempt the claims before us. We turn now to the conflict between those claims and Section 546(e).

4. Conflict with Section 546(e)

As discussed supra, the meaning of Section 546(e) with regard to appellants' rights to bring the actions before us is ambiguous. We must, therefore, look to its language, legislative history, and purposes to determine its effect. Marvel Characters, Inc. v. Simon, 310 F.3d 280, 290 (2d Cir. 2002). Every congressional purpose reflected in Section 546(e), however narrow or broad, is in conflict with appellants' legal theory. Their claims are, therefore, preempted.

Section 546(e) was intended to protect from avoidance proceedings payments by and to financial intermediaries in the settlement of securities transactions or the execution of securities contracts. The method of settlement through intermediaries is essential to securities markets. Payments by and to such intermediaries provide certainty as to each transaction's consummation, speed to allow parties to adjust the transaction to market conditions, finality with regard to investors' stakes in firms, and thus stability to financial markets. See H.R. Rep. No. 97-420 (1982); H.R. Rep. No. 95-595 (1977). Unwinding settled securities transactions by claims such as appellants' would seriously undermine -- a substantial understatement -- markets in which certainty, speed, finality, and stability are necessary to attract capital. To allow appellants' claims to

proceed, we would have to construe Section 546(e) as achieving the opposite of what it was intended to achieve.

Allowing creditors to bring claims barred by Section 546(e) to the trustee et al. only after the trustee et al. fails to exercise powers it does not have would increase the disruptive effect of an unwinding by lengthening the period of uncertainty for intermediaries and investors. Indeed, the idea of preventing a trustee from unwinding specified transactions while allowing creditors to do so, but only later, is a policy in a fruitless search of a logical rationale.

The narrowest purpose of Section 546(e) was to protect other intermediaries from avoidance claims seeking to unwind a bankrupt intermediary's transactions that consummated transfers between customers. See H.R. Rep. No. 97-420 (1982). It must be emphasized that appellants' legal theory would clearly allow such claims to be brought (later) by creditors of the bankrupt intermediary. Even the narrowest purpose of Section 546(e) is thus at risk.

Some judicial and other discussions of these issues avoid addressing the full effects of adopting appellants' arguments. See In re Lyondell Chem. Co., 503 B.R. 348, 359-78 (Bankr. S.D.N.Y. 2014) as corrected (Jan. 16, 2014). Such analysis always begins by reliance on the "trustee" language, id. at 358, but then narrows the scope of the transfers covered by Section 546(e)'s language. For example, appellants argue that the concerns of the amicus

curiae Securities and Exchange Commission regarding the effect of the district court's decision on the securities markets are misplaced, because appellants are not seeking money from the intermediaries.⁷ Resp. & Reply Br. of Pls.-Appellants Cross-Appellees 78-82. In doing so, they rely upon the Lyondell opinion, which, after relying on the "trustee" language, held that Section 546(e) is not preemptive of state law, fraudulent conveyance actions involving LBOs because such actions do not implicate the purposes of Section 546(e). 503 B.R. at 372-73.

There is no little irony in putting lynchpin reliance on the word "trustee" while ignoring the language that follows. In any event, Section 546(e)'s language clearly covers payments, such as those at issue here, by commercial firms to financial intermediaries to purchase shares from the firm's shareholders. 11 U.S.C. § 546(e) (limitations on avoidance of transfers made to a financial intermediary "in connection with a securities contract"). A search for legislative purpose is heavily informed by language, and analyzing all the language of a provision and its relationship to the

⁷ Under the "Collapsing Doctrine," "[c]ourts analyzing the effect of LBOs have routinely analyzed them by reference to their economic substance, 'collapsing' them, in many cases, to consider the overall effect of multi-step transactions." In re Lyondell Chem. Co., 503 B.R. 348, 354, 379 (Bankr. S.D.N.Y. 2014) as corrected (Jan. 16, 2014). Monies passed through intermediaries are deemed to be the property only of the ultimate recipients, here the cashed out shareholders.

Code as a whole is preferable to using literalness here and perceived legislative purpose (without regard to language) there as needed to reach particular results. See King v. Burwell, 135 S. Ct. 2480, 2489 (2015) (“[O]ftentimes the meaning -- or ambiguity -- of certain words or phrases may only become evident when placed in context. So when deciding whether the language is plain, we must read the words in their context and with a view to their place in the overall statutory scheme. Our duty, after all, is to construe statutes, not isolated provisions.”) (internal quotation marks and citations omitted).

We do not dwell on this because we perceive no conflict between Section 546(e)’s language and its purpose. Section 546(e) is simply a case of Congress perceiving a need to address a particular problem within an important process or market and using statutory language broader than necessary to resolve the immediate problem. Such broad language is intended to protect the process or market from the entire genre of harms of which the particular problem was only one symptom. The legislative history of Section 546(e) clearly reveals such a purpose. That history (confirmed by the broad language adopted) reflects a concern over the use of avoidance powers not only after the bankruptcy of an intermediary, but also after a “customer” or “other participant” in the securities markets enters bankruptcy. See H.R. Rep. No. 97-420 (1982). To be sure, the examples used by the Section’s proponents focused on the immediate concern of creditors of bankrupt brokers seeking to unwind payments by

the bankrupt firm to other intermediaries. Id. Such actions were perceived as creating a danger of “a ripple effect,” id., a chain of bankruptcies among intermediaries disrupting the securities market generally. From these examples, appellants, and others, have argued that when monetary damages are sought only from shareholders, or an LBO is involved, the purposes of Section 546(e) are not implicated. See Resp. & Reply Br. of Pls.-Appellants-Cross-Appellees 79; In re Lyondell, 503 B.R. at 358-59. Even apart from using the oil and water mixture of applying a narrow literalness to the word “trustee” and disregarding the rest of the Section’s language, we disagree.

As courts have recognized, Congress’s intent to “minimiz[e] the displacement caused in the commodities and securities markets in the event of a major bankruptcy affecting those industries,” In re Quebecor World (USA) Inc., 719 F.3d 94, 100 (2d Cir. 2013) (quoting Enron Creditors Recovery Corp. v. Alfa, S.A.B. de C.V., 651 F.3d 329, 333 (2d Cir. 2011)), reflected a larger purpose memorialized in the legislative history’s mention of bankrupt “customers” or “other participant[s]” and in the broad statutory language defining the transactions covered. That larger purpose was to “promot[e] finality . . . and certainty” for investors, by limiting the circumstances, e.g., to cases of intentional fraud, under which securities transactions could be unwound. In re Kaiser Steel Corp., 952 F.2d 1230, 1240 n.10 (10th Cir. 1991) (quoting H. Rep. No. 484, 101st Cong. 2d Sess. 2 (1990), reprinted in 1990 U.S.C.C.A.N. 223, 224).

The broad language used in Section 546(e) protects transactions rather than firms, reflecting a purpose of enhancing the efficiency of securities markets in order to reduce the cost of capital to the American economy. See Bankruptcy of Commodity and Securities Brokers: Hearings Before the Subcomm. on Monopolies and Commercial Law of the Comm. on the Judiciary, 47th Cong. 239 (1981) (statement of Bevis Longstreth, Commissioner, SEC) (explaining that, without 546(e), the Bankruptcy Code's "preference, fraudulent transfer and stay provisions can be interpreted to apply in harmful and costly ways to customary methods of operation essential to the securities industry"). As noted, central to a highly efficient securities market are methods of trading securities through intermediaries. Section 546(e)'s protection of the transactions consummated through these intermediaries was not intended as protection of politically favored special interests. Rather, it was sought by the SEC -- and corresponding provisions by the CFTC, see Bankruptcy Act Revision: Hearings on H.R. 31 and H.R. 32 Before the Subcomm. on Civil & Constitutional Rights of the H. Comm. on the Judiciary, 94th Cong., Supp. App. Pt., 2406 (1976) -- in order to protect investors from the disruptive effect of after-the-fact unwinding of securities transactions.

A lack of protection against the unwinding of securities transactions would create substantial deterrents, limited only by the copious imaginations of able lawyers, to investing in the securities market. The effect of appellants' legal theory would be akin to

the effect of eliminating the limited liability of investors for the debts of a corporation: a reduction of capital available to American securities markets.

For example, all investors in public companies would face new and substantial risks, if appellants' theory is adopted. At the very least, each would have to confront a higher degree of uncertainty even as to the consummation of securities transfers. The risks are not confined to the consummation of securities transactions. Pension plans, mutual funds, and similar institutional investors would find securities markets far more risky if exposed to substantial liabilities derived from investments in securities sold long ago. If appellants were to prevail, a pension plan whose position in a firm was cashed out in a merger would have to set aside reserves in case the surviving firm went bankrupt and triggered avoidance actions based on a claim that the cash out price exceeded the value of the shares. Every economic downturn would expose such institutional investors not only to a decline in the value of their current portfolios but also to claims for substantial monies received from mergers during good times.

Given the occasional volatility of economic events, any transaction buying out shareholders would risk being attacked as a fraudulent conveyance avoidable by creditors if the firm faltered. Appellants' legal theory would even reach investors who, after voting against a merger approved by other shareholders, were involuntarily cashed out. Tender offers, which almost always involve a premium above trading price, Lynn A. Stout, Are Takeover Premiums Really

Premiums? Market Price, Fair Value, and Corporate Law, 99 Yale L.J. 1235, 1235 (1990), would imperil cashed out shareholders if the surviving entity encountered financial difficulties.

If appellants' theory was adopted, individual investors following a conservative buy-and-hold strategy with a diversified portfolio designed to reduce risk might well decide that such a strategy would actually increase the risk of crushing liabilities. Such a strategy is adopted because it involves low costs of monitoring the prospects of individual companies and emphasizes the offsetting of unsystematic risks by investing in multiple firms. See Leigh v. Engle, 858 F.2d 361, 368 (7th Cir. 1988). Appellants' legal theory might well require costly and constant monitoring by investors to rid their portfolios of investments in firms that might, under then-current circumstances, be subject to mergers, stock buy-backs, or tender offers (and would otherwise be good investments). Investing in multiple companies, the essence of diversification, would increase the danger of avoidance liability.

The threat to investors is not simply losing a lawsuit. Given the costliness of defending such legal actions and the long delay in learning their outcome, exposing investors to even very weak lawsuits involving millions of dollars would be a substantial deterrent to investing in securities. The need to set aside reserves to meet the costs of litigation -- not to mention costs of losing -- would suck money from capital markets.

As noted, concern has been expressed that LBOs are different from other transactions in ways pertinent to the Bankruptcy Code. In re Lyondell Chem. Co., 503 B.R. 348, 354, 358-59 (Bankr. S.D.N.Y. 2014), as corrected (Jan. 16, 2014). However, the language of Section 546(e) does not exempt from its protection payments by firms to intermediaries to fund ensuing payments to shareholders for stock.

Moreover, securities markets are heavily regulated by state and federal governments. The statutory supplements used in law school securities regulation courses are thick enough to rival Kevlar in stopping bullets. Mergers and tender offers are among the most regulated transactions. See, e.g., Williams Act, 15 U.S.C.A. §§ 78m(d)-(e), 78n(d). Much of the content of state and federal regulation is designed to protect investors in such transactions. Much of that content is also designed to maximize the payout to shareholders cashed out in a merger, see, e.g., Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc., 506 A.2d 173, 182 (Del. 1986); Unocal Corp. v. Mesa Petroleum Co., 493 A.2d 946, 955-56 (Del. 1985), or accepting a tender offer, see Williams Act, 15 U.S.C.A. §§ 78m(d)-(e), 78n(d). Appellants' legal theory would allow creditors to seek to portray that maximization as evidence supporting a crushing liability. A legal rule substantially undermining those goals of state and federal regulation -- again, one akin to eliminating limited liability -- is a systemic risk.

It is also argued that the Bankruptcy Code has many different purposes and that Section 546(e) does not clearly “trump [] all [the] other[s].” In re Tribune Co. Fraudulent Conveyance Litig., 499 B.R. 310, 317 (S.D.N.Y. 2013). The pertinent -- and “trumping” -- “other” purpose of the Code is said to be the maximization of assets available to creditors. Id. Courts customarily accommodate statutory provisions in tension with one another where the principal purpose of each is attainable by limiting each in achieving secondary goals. See, e.g., In re Colonial Realty Co., 980 F.2d 125, 132 (2d Cir. 1992). However, Section 546(e) is in full conflict with the goal of maximizing the assets available to creditors. Its purpose is to protect a national, heavily regulated market by limiting creditors’ rights. Conflicting goals are not accommodated by giving value with the right hand and taking it away with the left. Section 546(e) cannot be trumped by the Code’s goal of maximizing the return to creditors without thwarting the Section’s purposes.

5. Additional Considerations Regarding Congressional Intent

We therefore conclude that Congress intended to protect from constructive fraudulent conveyance avoidance proceedings transfers by a debtor in bankruptcy that fall within Section 546(e)’s terms. As discussed supra, appellants’ theory hangs on the ambiguous use of the word “trustee,” has no basis in the language of the Code, leads to substantial anomalies, ambiguities and conflicts with the Code’s procedures, and, most importantly, is in irreconcilable conflict with the purposes of Section

546(e). In this regard, we do not ignore Section 544(b)(2), which prohibits avoidance of a transfer to a charitable contribution by a trustee but also expressly preempts state law claims by creditors. It states: “Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.” 11 U.S.C. § 544(b)(2). Appellants rely heavily upon this provision to argue that, while Congress knew how to explicitly preempt state law in the Bankruptcy Code, it chose not to do so in the context of Section 546(e).

Appellants’ argument suffers from a fatal flaw, however. In Arizona v. United States, the Supreme Court made clear that “the existence of an express pre-emption provisio[n] does not bar the ordinary working of conflict pre-emption principles or impose a special burden that would make it more difficult to establish the preemption of laws falling outside the clause.” 132 S. Ct. 2492, 2504-05 (2012) (quotation marks and citations omitted); see also Hillman, 133 S. Ct. at 1954 (“[W]e have made clear that the existence of a separate pre-emption provision does not bar the ordinary working of conflict pre-emption principles.”) (internal quotation marks and citations omitted). Section 544(b)(2) does not, therefore, undermine our conclusion as to Congress’s intent.

Next, appellants argue that Congress’s failure to amend Section 546(e) over the years that it has existed in pertinent form reflects a congressional intent to allow their actions to proceed. In support,

they point only to requests for an amendment by the Chair of the CFTC and by Comex, see Bankruptcy Act Revision: Hearings on H.R. 31 and H.R. 32 Before the Subcomm. on Civil & Constitutional Rights of the H. Comm. on the Judiciary, 94th Cong., Supp. App. Pt. 4, 2406 (1976); Bankruptcy Reform Act: Hearings on S. 2266 and H.R. 8000 Before the Subcomm. on Improvements in Judicial Machinery of the S. Comm. on the Judiciary, 95th Cong. 1297 (1978), the enactment of Section 544(b)(2) with an express preemption provision, and a decision in the District of Delaware, PHP Liquidating, LLC v. Robbins, 291 B.R. 603, 607 (D. Del. 2003), aff'd sub nom. In re PHP Healthcare Corp., 128 F. App'x 839 (3d Cir. 2005).

To be sure, a history of relevant practice may support an inference of congressional acquiescence. See, e.g., Fiero v. Fin. Indus. Regulatory Auth., 660 F.3d 569, 577 (2d Cir. 2011) (noting that FINRA's "longstanding reliance" on enforcement mechanisms other than fines -- and Congress's failure to alter FINRA's enforcement powers -- "indicates that FINRA is not authorized to enforce the collection of its fines through the courts"); Am. Tel. & Tel. Co. v. M/V Cape Fear, 967 F.2d 864, 872 (3d Cir. 1992) ("The Supreme Court in the past has implied private causes of action where Congress, after a 'consensus of opinion concerning the existence of a private cause of action' had developed in the federal courts, has amended a statute without mentioning a private remedy.") (quoting Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran, 456 U.S. 353, 380 (1982)). However, the effect or meaning of legislation is not to

be gleaned from isolated requests for more protective, but possibly redundant, legislation. The impact of Section 544(b)(2) is discussed immediately above and need not be repeated here.

Finally, the failure of Congress to respond to court decisions is of interpretive significance only when the decisions are large in number and universally, or almost so, followed. See Merrill Lynch, 456 U.S. at 379 (holding that congressional amendment of the Commodity Exchange Act that was silent on the subject of private judicial remedies did not overturn federal court decisions routinely and consistently [] recogniz[ing] an implied private cause of action”) (emphasis added); see also Touche Ross & Co. v. Redington, 442 U.S. 560, 577 n.19 (1979) (holding that the Supreme Court’s implication of a private right of action under § 10(b) of the Securities and Exchange Act of 1934 was simply acquiescence in “the 25-year-old acceptance by the lower federal courts of an implied action”). The present decision is far from a departure from a generally accepted understanding. The district court decision in this very case and the bankruptcy court decision in Lyondell are in fact the sole extensive judicial discussions of the issue. Indeed, our present decision does not even constitute a split among the circuits. As or more telling with regard to the existence of a general understanding or a need for action, we find no history of the use of state law, constructive fraudulent conveyance actions to unwind settled securities transactions, either after a bankruptcy or in its absence.

The Constitution's establishment of two legislative branches that must act jointly and with the executive's approval was designed to render hasty action possible only in circumstances of widely perceived need. Congress's failure to act must be viewed in that context, and reliance upon an inference of satisfaction with the status quo must at least be based on evidence of a long standing and recognized status quo. In the present matter, we cannot draw the suggested inference on the basis of the skimpy evidence submitted while the inference of a preemptive intent is easily drawn.

CONCLUSION

For the reasons stated, we affirm the dismissal of the complaint, on preemption rather than standing grounds. We resolve no issues regarding the rights of creditors to bring state law, fraudulent conveyance claims not limited in the hands of a trustee et al. by Code Section 546(e) or by similar provisions such as Section 546(g) which is at issue in an appeal heard in tandem with the present matter, see Whyte v. Barclays Bank.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Multidistrict Litigation No. 11 MD 2296 (RJS)
Master Case File No. 12 MC 2296 (RJS)

IN RE TRIBUNE COMPANY
FRAUDULENT CONVEYANCE LITIGATION

MEMORANDUM AND ORDER
September 23, 2013

RICHARD J. SULLIVAN, District Judge:

This multidistrict litigation (“MDL”), which consolidates state and federal cases from across the country, arises out of the leveraged buyout (“LBO”) of the Tribune Company (“Tribune”) in 2007 and its subsequent bankruptcy in 2008. Plaintiffs in these cases – the Official Committee of Unsecured Creditors (the “Committee”), which represents Tribune’s bankruptcy estate, and hundreds of

individual creditors of Tribune (the “Individual Creditors” or “Creditors”¹) – seek to claw back funds that were distributed to individuals and entities bought out in the course of the LBO (“Defendants”). The Creditors’ suits (the “Individual Creditor Actions”) target transactions that the Committee’s suits (the “Committee Actions”) are already seeking to unwind; however, the Creditors and the Committee assert different claims in pursuit of their shared end.

Now before the Court is Defendants’ consolidated motion to dismiss the Individual Creditor Actions pursuant to Federal Rule of Civil Procedure 12(b)(6). The narrow questions raised by the motion are whether Section 546(e) of the Bankruptcy Code prohibits the Creditors’ state law constructive fraudulent conveyance claims now that Tribune has filed for bankruptcy, and, if not, whether the Creditors are deprived of standing to proceed with their constructive fraudulent conveyance claims outside of bankruptcy while the Committee simultaneously asserts different fraudulent conveyance claims to unwind the same transactions². For the reasons set forth below, the Court concludes

¹ The Individual Creditors are comprised of both the “Note Holders” and the “Retirees” as defined in Master Case Order No. 3. (11 MD 2296, Doc. No. 1395.)

² At the outset, to avoid confusion, the Court notes that “standing” here denotes a creditor’s power to bring suit in light of the stay on creditor litigation while a bankruptcy trustee litigates estate claims. *See, e.g., St. Paul Fire and Marine Ins. Co. v. PepsiCo, Inc.*, 884 F.2d 688, 700–01 (2d Cir. 1989).

that Section 546(e) does not prohibit the Individual Creditors' fraudulent conveyance claims, but that Section 362(a)(1) nonetheless deprives the Individual Creditors of standing to avoid the same transactions that the Committee is simultaneously suing to avoid.

I. BACKGROUND³

Tribune is a 166-year-old media corporation that publishes the *Chicago Tribune* and the *Los Angeles Times* and also operates business units in radio, television, and the Internet. In the mid-2000s, this storied company's financial condition was deteriorating, so on April 1, 2007, Tribune's board of directors approved a buyout plan proposed by private equity investor Sam Zell ("Zell"). (NH Compl. ¶¶ 2–3; see Retiree Compl. ¶ 34.) The LBO paid out more than \$8.2 billion to thousands of public shareholders

³ The following facts are drawn from the Third Amended Complaint in *Deutsche Bank Trust Co. Ams. v. Adaly Opportunity Fund TD Sec., Inc.*, No. 11 Civ. 4784 (RJS) (S.D.N.Y. Oct. 9, 2012), Doc. No. 704 ("NH Compl.") and the Second Amended Complaint in *Niese v. Alliance Bernstein L.P.*, No. 11 Civ. 4538 (S.D.N.Y. Dec. 20, 2011), Doc. No. 203 ("Retiree Compl.") – which, for the purposes of factual allegations, are substantively identical to the complaints filed, respectively, in the other Note Holder and Retiree Actions. (Def.'s Mem. of Law ("Mem.") at 3 n.3.) In deciding the motion, the Court also considered Defendants' memorandum of law in support of their motion, the Individual Creditors' brief in opposition ("Opp."), Defendants' reply ("Reply"), and the transcript of the May 23, 2013 oral argument on the motion ("Arg. Tr."). After the motion was fully briefed, the parties also submitted several letters with supplemental authority, which the Court also considered. (See Doc. Nos. 2358, 2393, 2420, 2476, 2490, 2498, 2499, 2515, 2523, 2526, 2576, 2580.)

in exchange for their Tribune shares. (NH Compl. ¶¶ 62, 66; Retiree Compl. ¶¶ 37, 40.) Although the company operated for a year after it was taken private, when the economy and the publishing industry entered a steep decline in 2008, Tribune commenced bankruptcy proceedings pursuant to Chapter 11 of the Bankruptcy Code, 11 U.S.C. § 1101, *et seq.* (NH Compl. ¶ 112; Retiree Compl. ¶ 13.)

After Tribune filed for bankruptcy, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) created the Committee to stand in the shoes of the bankruptcy trustee and to file adversary proceedings for the benefit of Tribune’s creditors. (*In re Tribune Co.*, 08-13141 (Bankr. D. Del.), Docket (“Bankr. Doc.”) Nos. 5668 and 6150.)⁴ In this capacity, the Committee filed suit against cashed-out Tribune shareholders, Tribune’s officers and directors, financial advisors, Zell, and others who benefited from the buyout. (*Official Comm. of Unsecured Creditors of Tribune Co. v. Fitzsimons*, No. 10-ap-54010 (KJC) (Bankr. D. Del.), Doc. (“Committee SH Action Doc.”) No. 1; *Official Comm. of Unsecured Creditors of Tribune Co. v. Citigroup Global Mkts., Inc.*, No. 12-ap-50446 (KJC) (Bankr. D. Del.), Doc. No. 1.) Among other claims, the Committee sought to unwind the LBO by asserting that the shareholder buyouts constituted intentional

⁴ The Bankruptcy Court confirmed a plan for Tribune’s reorganization (the “Plan”) on July 23, 2012. (Bankr. Doc. No. 12074.) The Plan transferred the Committee Actions to a litigation trust administered by trustee Marc Kirschner (the “Litigation Trustee”). (*Id.*)

fraudulent conveyances. (Committee SH Action Doc. No. 1 ¶¶ 317-320.)

However, for reasons that will be made apparent below, the Committee did not assert a claim for *constructive* fraudulent conveyance. Consequently, on March 1, 2011, the Individual Creditors moved the Bankruptcy Court to permit them to file state-law constructive fraudulent conveyance (“SLCFC”) claims outside of bankruptcy.⁵ (Bankr. Doc. No. 8201.) The Bankruptcy Court conditionally lifted the stay because it found that, although the estate had filed intentional fraudulent conveyance claims, it had not asserted SLCFC claims within the applicable time period under 11 U.S.C. § 546(a) for trustee-filed fraudulent conveyance actions. (Bankr. Doc. No. 8740 (“Bankr. Decision”) ¶ 2.) The Bankruptcy Court expressly limited its decision, however, stating that it “made no finding and issue[d] no ruling determining the standing of [creditors] to assert SLCFC Claims or whether such claims are preempted or otherwise impacted by 11 U.S.C. § 546(e),” thus leaving those determinations for this Court. (Bankr. Decision ¶ 8 n.2.)

Based on the Bankruptcy Court’s decision to conditionally lift the stay on the SLCFC claims, starting on June 2, 2011, Individual Creditors across the country initiated SLCFC actions in more than

⁵ Intentional fraudulent conveyance claims require a showing of actual fraud by the transferor, whereas constructive claims impute fraudulent intent to transfers that, among other things, render the transferor insolvent.

twenty state and federal courts to unwind the buyouts of Tribune shareholders. (*See e.g.*, NH Compl. ¶¶ 115-160; Retiree Compl. ¶¶ 314-329; *see also* Mem. at 7.) By December 19, 2011, the filings related to the LBO had become sufficiently voluminous that the Judicial Panel on Multidistrict Litigation consolidated the Individual Creditor Actions and the Committee Actions here in the Southern District of New York. *In re Tribune Co. Fraudulent Conveyance Litig.*, 831 F. Supp. 2d 1371, 1371 (J.P.M.L. 2011).

Defendants filed their motion to dismiss and memorandum of law on November 6, 2012 (Doc. Nos. 1670, 1671⁶), and the Individual Creditors responded on December 21, 2012 (Doc. No. 2086). The motion was fully briefed as of February 4, 2013. (Doc. No. 2293.) On March 27, 2013, this MDL was transferred to my docket (Doc. No. 2419), and on May 23, the Court heard oral argument on the motion (Doc. No. 2560).

I. DISCUSSION

In order to survive a motion to dismiss pursuant to Rule 12(b)(6), a plaintiff must “provide the grounds upon which his claim rests.” *ATSI Commc’ns, Inc. v. Shaar Fund, Ltd.*, 493 F.3d 87, 98 (2d Cir. 2007). He must also allege “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

⁶ Unless otherwise noted, docket citations refer to the consolidated MDL docket sheet, 11 MD 2296.

Defendants assert two reasons why the Individual Creditor Actions are barred as a matter of law. First, Defendants argue that creditors' claims under state law are prohibited by 11 U.S.C. § 546(e), which bars a bankruptcy trustee from asserting constructive fraudulent conveyance claims to unwind "settlement payments" such as shareholder buyouts in an LBO. (Mem. at 9-21.) Second, Defendants argue that, because of Tribune's ongoing bankruptcy and the Committee's pursuit of intentional fraudulent conveyance claims, the Individual Creditors lack standing to assert constructive fraudulent conveyance claims that duplicate the Committee's claims. (*Id.* at 22-35.) The Court will address each argument in turn.

A. The Effect of Section 546(e) on State-Law Claims

Defendants contend that 11 U.S.C. § 546(e) bars not only the Committee from asserting constructive fraudulent conveyance claims, but the Individual Creditors as well. (Mem. at 9-21.) Before turning to that provision, a brief overview of trustee avoidance powers may be helpful.

A bankruptcy trustee is empowered to assert various fraudulent conveyance claims under the Bankruptcy Code. Section 544(b)(1) gives a trustee power to "avoid any transfer of an interest of the debtor in property . . . that is voidable under applicable law by a creditor." This provision empowers the trustee to utilize, on behalf of the estate, any legal theory of recovery that a creditor could assert under state law. Section 548(a)(1) also

permits a trustee to avoid fraudulent transfers by the debtor, but this Section creates a federal cause of action in the trustee's own name. Under Section 548(a)(1), there are two different avenues by which a trustee may avoid a transaction. Subsection (A) permits a trustee to:

avoid any transfer . . . of an interest of the [bankrupt] debtor in property . . . that was made . . . on or within 2 years before the date of the filing of the [bankruptcy], if the debtor voluntarily or involuntarily made such transfer . . . with *actual intent* to hinder, delay, or defraud any entity . . .

11 U.S.C. § 548(a)(1)(A) (emphasis added). In contrast to Subsection (A)'s avoidance power for intentional fraudulent transfers, Subsection (B) permits a trustee to avoid transactions that were constructively fraudulent due to the debtor's insolvency and the adequacy of the consideration the debtor received in exchange for the transfer. 11 U.S.C. § 548(a)(1)(B).

In this way, the Bankruptcy Code girds a trustee with broad avoidance powers; however, it also strips away those powers in certain circumstances. In particular, Section 546(e) dictates that “[t]he trustee [in bankruptcy] may not avoid a transfer that is a . . . settlement payment.” 11 U.S.C. § 546(e). The term “settlement payment” refers to any kind of payment that “complete[s] a transaction in securities,” *Enron Creditors Recovery Corp. v. Alfa, S.A.B. de C.V.* 651 F.3d 329, 336 (2d Cir. 2011), including a “payment

for shares during an LBO,” *In re Resorts Int’l*, 181 F.3d 505, 515-16 (3d Cir. 1999); see *Enron Creditors*, 651 F.3d at 336. Section 546(e) makes one exception, however: a trustee may utilize Section 548(a)(1)(A) to avoid actually fraudulent transfers. Therefore, in conjunction, Sections 546(e) and 548(a)(1)(A) prohibit a bankruptcy trustee from asserting a constructive fraudulent conveyance claim to unwind LBO payouts. Defendants argue that the Individual Creditors’ claims are similarly barred.

1. Construing Section 546(e)

To determine whether Section 546(e) also applies to the Individual Creditors, the Court “must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose.” *United States v. Kozeny*, 541 F.3d 166, 171 (2d Cir. 2008) (quoting *United States v. Albertini*, 472 U.S. 675, 680 (1985)). As discussed above, Section 546(e) addresses its prohibition on avoiding settlement payments only to the bankruptcy trustee, and the Court works from the premise “that Congress says in a statute what it means and means in a statute what it says there.” *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000) (quoting *Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 254 (1992)). “[H]ad Congress intended [Section 546(e)] to be broadly [applicable], it could simply have said so, as it did in describing the parties who [may] act under other sections of the Code.” See *Hartford Underwriters*, 530 U.S. at 7 (analyzing whether Section 506(c) of the Bankruptcy Code applies only to the bankruptcy trustee or also

to an administrative claimant). And where, as here, “a statute [prohibits] specific action and designates a particular party [as barred from] tak[ing] it[, that] is surely among the least appropriate [moments] in which to presume nonexclusivity.” *Id.* at 6. Moreover, “the fact that the sole party named – the trustee – has a unique role in bankruptcy proceedings makes it entirely plausible that Congress would [apply a limitation] to him and not to others.” *Id.* at 7. Because Congress has spoken so clearly with respect to the object of the limitation in Section 546(e), the Court discerns no basis in the text for barring SLCFC claims brought by Individual Creditors who have no relation to the bankruptcy trustee. *See PHP Liquidating, LLC v. Robbins*, 291 B.R. 603, 607 (Bankr. D. Del. 2003) (concluding that Section 546(e), by its own terms, does not apply to unsecured creditors seeking to unwind a fraudulent conveyance); *see also Burlington N. R.R. Co. v. Okla. Tax Comm’n*, 481 U.S. 454, 461 (1987) (“Unless exceptional circumstances dictate otherwise, when we find the terms of a statute unambiguous, judicial inquiry is complete.” (quotation marks, punctuation, and citations omitted)).

2. Implied Preemption

Notwithstanding the straightforward language of the statute, Defendants urge the Court to find that Congress impliedly preempted constructive fraudulent conveyance claims brought by state-law creditors when it enacted Section 546(e). (Mem. at 14-21.) Although “[i]mplied preemption analysis does not justify ‘a freewheeling judicial inquiry . . . ,’” *Chamber of Commerce of U.S. v. Whiting*, 131 S. Ct.

1968, 1985 (2011) (quoting *Gade v. Nat'l Solid Wastes Mgmt. Assn.*, 505 U.S. 88, 111 (1992)), there are circumstances in which a court may infer that Congress clearly intended to preempt state law, even without expressly saying so, see *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372 (2000); *Pac. Capital Bank, N.A. v. Connecticut*, 542 F.3d 341, 351 (2d Cir. 2008). These include situations (1) “where Congress has legislated so comprehensively that federal law occupies an entire field of regulation and leaves no room for state law,” *N.Y. SMSA Ltd. P'ship v. Town of Clarkstown*, 612 F.3d 97, 104 (2d Cir. 2010); (2) “where local law conflicts with federal law such that it is impossible for a party to comply with both . . . ,” *id.*; and (3) where “state law . . . stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress,” *Arizona v. United States*, 132 S. Ct. 2492, 2505 (2012) (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)); see also *In re Methyl Tertiary Butyl Ether (MTBE) Prods. Liab. Litig.*, Nos. 10-4135-cv (L), 10-4329-cv (XAP), 2013 WL 3863890, at *23 (2d Cir. July 26, 2013) (distinguishing “conflict preemption” from “obstacle preemption” but conceding that the latter may be “only an intermediate step down the road to impossibility preemption”).

Here, Defendants focus on the third type of implied preemption – obstacle preemption – arguing that the Individual Creditors’ claims “would assuredly frustrate the purposes of the federal statute and stand as an obstacle to its accomplishment.” (Mem. at 13 (internal citations

and quotation marks omitted.) “The burden of establishing obstacle preemption . . . is heavy Indeed, federal law does not preempt state law under obstacle preemption analysis unless ‘the repugnance or conflict is so direct and positive that the two acts cannot be reconciled or consistently stand together.’” *MTBE Prods. Liab.*, 2013 WL 3863890, at *23 (quoting *Madeira v. Affordable Hous. Found., Inc.*, 469 F.3d 219, 241 (2d Cir. 2006)).

In every pre-emption case, “the purpose of Congress is the ultimate touchstone . . . ,” *Wyeth v. Levine*, 555 U.S. 555, 565 (2009), and the first place to look for Congress’s purpose is in the language it used, see *O&G Indus., Inc. v. Nat’l R.R. Passenger Corp.*, 537 F.3d 153, 161 (2d Cir. 2008) (declining to infer preemption by “supply[ing] that which [was] omitted by the legislature” when a federal statute “contain[ed] no limitation on its face” and utilized “unambiguous” language (quoting *Spielman v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 332 F.3d 116, 127 (2d Cir. 2003))). As already discussed, it is not evident from the language of Section 546(e) that Congress intended to block creditors from filing SLCFC claims. Moreover, Congress has repeatedly issued reports discussing Section 546(e), and these reports refer only to the provision’s effect on the trustee.⁷ Therefore, Congress’s language counsels against Defendants’ argument.

⁷ See H.R. Rep. No. 95-595, at 391 (1977) (referring only to the trustee in the context of § 546(e)); S. Rep. No. 95-989, at 8, 106 (1978) (same); H.R. Rep. No. 96-1195, at 6, 17 (1980) (same);

Nevertheless, Defendants urge the Court to consider the policy goals that spurred congressional action. (Mem. at 14-16.) By its own accounts, Congress enacted Section 546(e) in order to provide certainty to securities transactions and, in so doing, to enhance the stability of the nation's financial markets. *See, e.g.*, H.R. Rep. No. 95-595, at 391 (1977); *Kaiser Steel Corp. v. Charles Schwab & Co.*, 913 F.2d 846, 848 (10th Cir. 1990) (finding that Congress enacted Section 546(e) to “protect the nation's financial markets from the instability caused by the reversal of settled securities transactions” (citing S. Rep. No. 989, 95th Cong., 2d Sess. 8 (1978))). However, Congress pursues a host of other aims through the Bankruptcy Code, not least making whole the creditors of a bankruptcy estate. *See, e.g.*, Elizabeth Warren, *The New Property*, 92 Mich. L. Rev. 336, 344-61 (1993). It is not at all clear that Section 546(e)'s purpose with respect to securities transactions trumps all of bankruptcy's other purposes. *See Freeman v. Quicken Loans, Inc.*, 132 S. Ct. 2034, 2044 (2012) (acknowledging that “no legislation pursues its purposes at all costs, and every statute purposes, not only to achieve certain ends, but also to achieve them by particular means”); *cf. Rice v. Norman Williams Co.*, 458 U.S. 654, 659 (1982) (determining that, although the purpose of federal antitrust law is to prohibit anticompetitive conduct, a “state statute is not preempted . . . simply

H.R. Rep. No. 97- 420, at 1–2 (1982) (same); H.R. Rep. No. 109-648, at 6 (2006) (same).

because [it] might have an anticompetitive effect” (citations omitted)).

To the contrary, Congress has repeatedly indicated that it did not enact Section 546(e) to protect market stability to the exclusion of all other policies. For example, the Commodities Futures Trading Commission and Commodity Exchange, Inc. petitioned Congress to amend Section 546(e) to expressly preempt SLCFC claims. *See Bankruptcy Act Revision: Hearings on H.R. 31 and H.R. 32 Before the Subcomm. on Civil & Constitutional Rights of the Comm. on the Judiciary*, 94th Cong., at 2406 (1976); *Bankruptcy Reform Act: Hearings Before the Subcomm. on Improvements in Judicial Machinery of the Comm. on the Judiciary*, 95th Cong., at 1296–97 (1977). Nevertheless, Congress declined to do so when it enacted Section 546(e) in 1977.⁸ Moreover, on each of the eight occasions when it has amended Section 546(e),⁹ Congress has never added an express

⁸ The Supreme Court has used Congress’s decision not to explicitly implement the recommendations of interest groups as evidence that Congress rejected those proposals. *See Amgen Inc. v. Conn. Ret. Plans & Trust Funds*, 133 S. Ct. 1184, 1201 (2013) (citing a hearing witness’s support for a bill eliminating the fraud-on-the-market theory from private securities litigation as evidence that Congress was aware of that option and chose not to pursue it); *see also Capitol Records, LLC, v. ReDIGI Inc.*, No. 12 Civ. 95 (RJS), 2013 WL 1286134, at *15 (S.D.N.Y. Mar. 30, 2013) (“[T]he Court cannot of its own accord condone wholesale [statutory revision], particularly when Congress itself has declined to take that step.”).

⁹ *See* Pub. L. No. 109-390, § 5(b)(1) (2006); Pub. L. No. 109-8, § 907(o)(3) (2005); Pub. L. No. 105-183, § 3(c)(1) (1998); Pub. L. No. 103-394, § 501(b)(4)(A) (1994); Pub. L. No. 101-311, § 203

preemption provision, even after the Bankruptcy Court for the District of Delaware held that Section 546(e) *permits* creditors to assert SLCFC claims under the right circumstances. *See PHP*, 291 B.R. at 607. And tellingly, Congress chose not to extend Section 546(e) to SLCFC claims filed *before* bankruptcy or to intentional fraudulent conveyance claims brought *after* a bankruptcy filing, even though these types of claims pose the very same threat to the stability of securities markets. Obviously, Congress has struck some balance between various policy priorities, which means that it has determined that fraudulent conveyance actions are not necessarily and in all cases “repugnant” to the interest of market stability. *See MTBE Prods. Liab.*, 2013 WL 3863890, at *23. The Court is not authorized to upend Congress’s balance between the operation of state and federal law, even if doing so would clearly benefit investors and markets. *See O&G Indus.*, 537 F.3d at 161.

Furthermore, Congress has demonstrated elsewhere in the Bankruptcy Code that it knows how to – and is willing to – preempt an individual creditor’s state law claims. *See* 11 U.S.C. § 544(b)(2). This is powerful evidence that Congress did not intend for Section 546(e) to preempt state law. *See MTBE Prods. Liab.*, 2013 WL 3863890, at *23 (citing *Wyeth v. Levine*, 555 U.S. 555 (2009)); *see also Wyeth*, 555 U.S. at 575 (“The case for federal pre-emption is

(1990); Pub. L. No. 99-554, § 283(l) (1986); Pub. L. No. 98-353, § 351(3) (1984); Pub. L. No. 97-222, § 4 (1982).

particularly weak where Congress has indicated its awareness of the operation of state law in a field of federal interest, and has nonetheless decided to stand by both concepts . . .”). Specifically, in Section 544(b)(1), Congress empowered the trustee to avoid any fraudulent conveyances that a creditor could avoid under state law. Then in Section 544(b)(2), Congress withdrew this power in the case of certain charitable contributions, much in the way that Congress limited a trustee’s power to avoid certain “settlement payments” under Section 546(e). However, Section 544(b)(2) goes further: it states that “any claim *by any person* to recover a transferred contribution . . . under Federal or State law in a Federal or State court shall be preempted by the commencement of the [bankruptcy] case.” 11 U.S.C. § 544(b)(2) (emphasis added). Section 546(e), as we have seen, names only the trustee. Congress’s explicit preemption of all creditors’ state-law claims in one section of the Code undermines the suggestion that Congress intended to *implicitly* preempt state-law claims only two sections later. See *MTBE Prods. Liab.*, 2013 WL 3863890, at *23; *Integrated Solutions, Inc. v. Svc. Support Specialties, Inc.*, 124 F.3d 487, 493 (3d Cir. 1997) (“The clear lack of Congressional intent to preempt state law . . . is even more telling given the explicit language the Congress uses when it intends to displace state nonbankruptcy law in other provisions of the Code.” (citing 11 U.S.C. §§ 541(c)(1), 1123(a))).

Defendants also make much out of a recent decision in which Judge Rakoff held that a Bankruptcy Code provision very similar to Section

546(e) prohibits an avoidance action by creditors, not just the bankruptcy trustee. (See Doc. No. 2293 at 5 (citing *Whyte v. Barclays Bank PLC*, 494 B.R. 196 (S.D.N.Y. 2013)).) However, that case is readily distinguishable. In *Whyte*, a bankruptcy plan under Chapter 11 designated one entity, the SemGroup Litigation Trust (“SemGroup”), to serve in the capacity of both the bankruptcy trustee and the representative of outside creditors. SemGroup sued to avoid several “swap transactions,” and the parties disputed the application of 11 U.S.C. § 546(g) to SemGroup’s claim. Section 546(g) prohibits a bankruptcy trustee from avoiding certain “swap transactions” in much the same way that Section 546(e) bars a trustee from avoiding settlement payments. Therefore, in its role as bankruptcy trustee, SemGroup was clearly prohibited from avoiding swap transactions. In light of that prohibition and because 11 U.S.C. § 546(a)(1)(A) gives a bankruptcy trustee only two years after the initiation of bankruptcy proceedings to file an avoidance claim, SemGroup waited for two years and then sought to avoid several swap transactions in its role as the representative of outside creditors. Judge Rakoff concluded that this was impermissible. He reasoned that, because Section 546(g) barred SemGroup-as-trustee from avoiding these transactions, to allow SemGroup-as-creditor – itself a “creature of a Chapter 11 plan” – to avoid the transaction “by way of a state fraudulent conveyance action would stand as a major obstacle to the purpose and objectives of” the prohibition in Section 546(g). *Whyte*, 494 B.R. at 200. In essence, SemGroup could not simply take off its trustee hat,

put on its creditor hat, and file an avoidance claim that Section 546(g) prohibited the trustee from filing. By contrast, the Individual Creditors here, unlike SemGroup, are not creatures of a Chapter 11 plan, and they are in no way identical with the bankruptcy trustee; as a result, there is no reason why Section 546(e) should apply to them in the same way that Section 546(g) applied to SemGroup.¹⁰

Finally, Defendants contend that, if the Court does not find that Section 546(e) preempts *all* SLCFC claims, then bankruptcy trustees will simply assign these claims to creditors any time Section 546(e) bars the trustee from acting. (Mem. at 21; Arg. Tr. 13:23–14:4.) These concerns are overstated. For the reasons discussed below in Section II.B.3, the Court concludes that a trustee may not relinquish constructive fraudulent conveyance claims while

¹⁰ Defendants cite three other cases in which federal courts blocked state causes of action because of Section 546(e). However, each of the cases likewise involved a successor to the bankruptcy trustee – which is explicitly bound by Section 546(e) – so none of them addresses whether Section 546(e) should apply to individuals or entities other than the trustee. See *Contemporary Indus. Corp. v. Frost*, 564 F.3d 981, 988 (8th Cir. 2009) (blocking state law claims by the committee-successor to the trustee for unjust enrichment and impermissible shareholder distributions because they were effectively restyled constructive fraudulent conveyance claims); *U.S. Bank N.A. v. Verizon Commc'ns Inc.*, 892 F. Supp. 2d 805, 812, 815 (N.D. Tex. 2012) (barring similar claims by the litigation trust that was the assignee of the bankruptcy trustee's claims); *Hechinger Inv. Co. v. Fleet Retail Fin. Grp.*, 274 B.R. 71, 74, 95–96 (D. Del. 2002) (prohibiting similar claims by the committee-successor to the bankruptcy trustee).

retaining intentional claims, so there is some limit to the collusion between trustee and creditors that Defendants fear. In any event, as discussed above, Congress is not ignorant of the implications of its phrasing in Section 546(e), and despite multiple opportunities and invitations to amend the provision, Congress has left it untouched. Defendants do not explain why the Court should act where Congress has repeatedly declined to do so. *See Wyeth*, 555 U.S. at 574 (“If Congress thought state law suits posed an obstacle to its objectives, it surely would have enacted an express pre-emption provision at some point.”).

Accordingly, the Court concludes that Congress said what it meant and meant what it said, *see Underwriters Ins. Co.*, 530 U.S. at 6; as such, Section 546(e) applies only to the trustee and does not preempt the Individual Creditors’ SLCFC claims.

B. Standing

Defendants alternatively move to dismiss the Individual Creditor Actions based on three different standing arguments. First, they argue that “[b]ankruptcy . . . eliminates the individual creditor rights in favor of collective bankruptcy-estate rights,” so the Individual Creditors were permanently divested of the right to sue on their own behalf when Tribune commenced bankruptcy proceedings. (Mem. at 1, 22-24.) Defendants next argue that, even if the SLCFC claims could revert to the Individual Creditors, the claims would need to be formally disclaimed by the trustee first, which Defendants contend did not happen here. (*Id.* 29–

32.) Finally, Defendants argue that, even if the SLCFC claims could automatically revert to the Individual Creditors, the Creditors nevertheless lack standing because the Committee is suing to avoid the *same* transactions under an intentional fraudulent conveyance theory.¹¹ (*Id.* at 24-29.) The Court addresses each of these arguments in turn.

1. SLCFC Claims Are Not Permanently Stayed by Bankruptcy

Defendants argue that, when Tribune filed for bankruptcy, the “trustee (or creditors’ committee) acquire[d] complete dominion and control over any creditor’s state law claims,” meaning that the Individual Creditors were permanently divested of their fraudulent conveyance claims. (Mem. at 22.) The Court disagrees. Filing for bankruptcy is powerful magic, but the mere filing does not operate as a permanent stay against the Individual Creditors’ SLCFC Claims.

Section 362(a) of the Bankruptcy Code provides that the filing of a bankruptcy petition operates as a stay of, among other things, “the commencement or continuation . . . of a judicial, administrative, or other action or proceeding against the debtor . . . or to recover a claim against the debtor that arose

¹¹ Defendants raise a fourth related argument – that even if Plaintiffs have standing they are subject to the same limitations that Section 546(e) imposes on a trustee. (Mem. at 32–35.) This argument simply rehashes their primary argument with regard to Section 546(e), and that argument fails for the reasons discussed in Section II.A.

before the commencement of the case.” 11 U.S.C. § 362(a)(1). This stay applies to fraudulent conveyance claims, even though fraudulent conveyance claims are asserted against the debtor’s transferee rather than against the debtor. *In re Colonial Realty Co.*, 980 F.2d 125, 131-32 (2d Cir. 1992) (“[T]hird-party action[s] to recover fraudulently transferred property [are] properly regarded as undertaken to recover a claim against the debtor and [are] subject to the automatic stay pursuant to § 362(a)(1).” (citation and internal quotations omitted)). Significantly, however, the stay does not last forever; it remains only until the bankruptcy proceedings are closed, dismissed, or discharged. 11 U.S.C. § 362(c)(2).

For some claims, the stay may lift even earlier. For example, under Section 546(a)(1)(A), the trustee has only two years to commence avoidance actions after a debtor files for bankruptcy, *see* 11 U.S.C. §§ 301(b), 546(a)(1)(A), and if that prerogative expires, a “creditor regains standing to pursue a state law fraudulent conveyance action, in its own name and for its own benefit,” *In re Integrated Agri, Inc.*, 313 B.R. 419, 427-28 (Bankr. N.D. Ill. 2004); *see Klingman v. Levinson*, 158 B.R. 109, 113 (N.D. Ill. 1993) (“[T]he trustee does not retain this exclusive right in perpetuity. The trustee’s exclusive right to maintain a fraudulent conveyance action expires and creditors may step in (or resume actions) when the trustee no longer has a viable cause of action.” (citing *Kathy B. Enterprises, Inc. v. United States*, 779 F.2d 1413, 1415 (9th Cir. 1986); *Federal Deposit Ins. Corp. v. Davis*, 733 F.2d 1083, 1085 (4th Cir. 1984))). Therefore, the automatic stay on the

Individual Creditors' SLCFC claims expired in 2010 unless the Committee exercised its own avoidance powers. The stay does not, of its own operation, continue to bar the Creditors' claims.

2. SLCFC Claims Revert to Creditors Automatically

Defendants next argue that, even if the Individual Creditors' claims are no longer inexorably barred by the stay, the claims do not revert to the Individual Creditors automatically. Instead, Defendants assert, the bankruptcy court must take some affirmative action before SLCFC claims may revert to the Individual Creditors. (Mem. at 30.)

Defendants' argument is premised on the language of 11 U.S.C. § 349(b)(3), which states that, "[u]nless the court, for cause, orders otherwise, a dismissal of a case . . . reverts the property of the estate in the entity in which such property was vested immediately before the commencement of the case" Because Tribune's bankruptcy has not been dismissed, Defendants contend that the SLCFC claims could not have reverted. However, Defendants clearly misconstrue the bankruptcy estate's relationship with fraudulent conveyance claims. A fraudulent conveyance claim is not treated as property of the bankruptcy estate because the debtor has no personal recourse against the transferee in a fraudulent conveyance. *See Colonial Realty*, 980 F.2d at 131 ("In accordance with 11 U.S.C. § 541(a)(1) (1988), the property of a bankruptcy estate includes . . . 'all legal or equitable interests of the debtor in property as of the

commencement of the case. . . . [T]he inclusion of property recovered by the trustee pursuant to his avoidance powers in a separate definitional subparagraph clearly reflects the congressional intent that such property is not to be considered property of the estate until it is recovered.” (internal quotation marks omitted)). Because creditors’ avoidance claims are not property of the estate, the trustee has a limited time in which to bring them, and the bankruptcy court need not discharge the debtor from bankruptcy in order for the avoidance claims to revert. Instead, when the two-year limitation on trustee avoidance claims expires, the claims automatically revert. See 11 U.S.C. § 546(a)(1)(A); *Integrated Agri*, 313 B.R. at 427-28 (“A creditor regains standing to pursue a state law fraudulent conveyance action, in its own name and for its own benefit, once the statute of limitations expires on the bankruptcy trustee’s right to bring the claim.”); *Klingman*, 158 B.R. at 113 (“The trustee’s exclusive right to maintain a fraudulent conveyance action expires and creditors may step in (or resume actions) when the trustee no longer has a viable cause of action.”); see also *In re Tessmer*, 329 B.R. 776, 779 (Bankr. M.D. Ga. 2005) (“[C]reditors do not regain the right to sue unless the trustee abandons the claim or he no longer has a viable cause of action because, for example, the statute of limitations has run.” (internal quotation marks omitted)).¹²

¹² In support of their contention that fraudulent conveyance claims did not revert to the Individual Creditors, Defendants cite the Bankruptcy Act of 1867 and the Supreme Court’s

3. The Committee's Intentional Fraudulent Conveyance Action Deprives the Individual Creditors of Standing to Pursue SLCFC Claims

Finally, Defendants argue that, because the Committee is still pursuing its own avoidance action against the LBO beneficiaries, the Individual Creditors' co-extensive claims are held in abeyance by the automatic stay in Section 362 of the Code. (Mem. at 24-29.) In essence, Defendants claim that the Committee's effort to avoid the LBO payouts on a theory of intentional fraudulent conveyance deprives the Individual Creditors of standing to avoid the same payouts under a constructive theory. Therefore, the question is whether the Individual Creditors may attempt to unwind the shareholder payouts even though the Committee is simultaneously targeting the same shareholder payouts by different means. This is ultimately a question of statutory interpretation, which of course turns on the language of the Bankruptcy Code.

interpretation of that statute in *Trimble v. Woodhead*, 102 U.S. 647, 649 (1880). Although the Court in *Trimble* barred a creditor from pursuing a state-law avoidance claim after the trustee had failed to act, that holding does not apply to this case. Critically, unlike the modern Code, the Bankruptcy Act of 1867 explicitly treated fraudulent conveyance claims as property of the trustee once bankruptcy proceedings commenced. See Act of March 2, 1867, ch. 176, 14 Stat. 517, 523 (repealed 1878) (vesting "all the property conveyed by the [debtor] in fraud of his creditors . . . at once . . . in such [trustee]" as is appointed). Therefore, the Supreme Court's jurisprudence interpreting the 1867 law is inapposite here.

The Court sees nothing in the language of the Bankruptcy Code to suggest that Congress intended for Section 362(a)(1)'s automatic stay to apply differently based on the theory under which a trustee brings a fraudulent conveyance claim or the particular Code provision on which the trustee relies. Section 362(a)(1) does not differentiate between constructive and intentional fraudulent conveyance actions: it stays *any* action “to recover a claim against the debtor” from a third party. 11 U.S.C. § 362(a)(1); see *In re Colonial Realty Co.*, 980 F.2d at 132. Other sections reinforce that Congress did not conceive of the trustee’s avoidance power as a severable commodity that could be sliced up by theory and distributed between the trustee and creditors. Section 546(a), which creates the time limitation on a bankruptcy trustee’s avoidance power, recognizes no distinction between trustee avoidance actions brought under Section 544(b)(1) and those brought under Section 548(a)(1), nor does it distinguish between avoidance actions based on theories of actual fraud versus those based on constructive fraud. 11 U.S.C. § 546(a). Similarly, Section 544(b)(1) states that “the trustee may avoid any transfer of an interest in property . . . that is voidable under applicable [state] law by a creditor.” 11 U.S.C. § 544(b)(1). It refers only to the trustee’s power to avoid a transfer and makes no reference to the particular theory that the trustee employs. Ultimately, it is irrelevant whether the Committee styles its claim as intentional or constructive or as one under Section 548(a)(1)(A) or Section 544(b)(1).¹³

¹³ In its original Complaint, the Committee brought its

Section 362(a)(1) stays fraudulent conveyance claims by creditors for as long as the trustee is exercising its avoidance powers, so the stay deprives the Individual Creditors' of standing to bring SLCFC claims against the same transactions that the Committee is currently targeting.

Other courts have reached the same conclusion. In a leading example, the Fourth Circuit confronted a situation in which a trustee and a creditor both sought to unwind the same transactions using different theories of recovery. *Nat'l Am. Ins. Co. v. Ruppert Landscaping Co. Inc.*, 187 F.3d 439, 441 (4th Cir. 1999). The court held that the creditors "lack[ed] standing to pursue these claims in district court. Until the trustee . . . abandoned his potential fraudulent conveyance action, the [creditors could] not proceed with their claims in district court." *Id.*¹⁴

fraudulent conveyance claim pursuant to both Section 544(b)(1) and Section 548(a)(1)(A). (See Committee SH Action Doc. No. 1 ¶¶ 317–320.) In the Fifth Amended Complaint, the Committee relies exclusively on Section 548(a)(1)(A) as the statutory basis for its claim. (See Doc. No. 2565, Ex. 1 ¶¶ 376–381.) This amendment, which caused no substantive change whatsoever to the nature of the Committee's claim, illustrates the irrelevance of the distinction the Committee seeks to draw between Section 544(b)(1) and Section 548(a)(1)(A), and it does not alter the Court's analysis.

¹⁴ Defendants assert that *Ruppert* is not applicable because it arose during the two-year period within which only the trustee may bring fraudulent conveyance claims. (Opp. at 34-35; Arg. Tr. at 40:8-41:2, 48:20-49:6.) While the Court appreciates this distinction, the thrust of *Ruppert* – that a creditor is stayed from asserting a claim to unwind the same transaction that a

Other courts within and outside the Fourth Circuit have echoed this rule, and the Individual Creditors fail to identify any authority that holds otherwise. See, e.g., *Poth v. Russey*, 99 F. App'x 446, 457 (4th Cir. 2004) (“When a creditor brings a state-law challenge to a transaction that a bankruptcy trustee could avoid as a fraudulent conveyance, the . . . creditor lacks standing to assert it.”); *N. Trust Bank, FSB v. Wells Fargo Bank, N.A.*, 464 B.R. 269, 269 (E.D. Va. 2012) (holding that where both the trustee and a creditor challenge the same transfer, the trustee’s “ongoing prosecution of its fraudulent conveyance action ‘on behalf of all creditors’ deprive[d the creditor] of standing to pursue its individual claims”); *In re Teleservices Group, Inc.*, 463 B.R. 28, 36 (Bankr. W.D. Mich. 2012) (determining that, where the trustee and a creditor choose different remedies to “rectify . . . the same injustice,” the “automatic stay prohibits” the creditor from prosecuting its claim); *In re Bridge Info. Sys., Inc.*, 325 B.R. 825, 836 (Bankr. M.D. Mo. 2005) (recognizing that only the trustee’s successor “has the statutory right to assert” fraudulent conveyance claims, to the exclusion of state law claimants seeking to recover for the same transactions); *In re Tessmer*, 329 B.R. 776, 780 (Bankr. M.D. Ga. 2005) (“Once the Trustee acts under § 544(b), the rights of all other parties to bring a suit based on the same transaction are fully and permanently cut off unless the Trustee later abandons the claim.”); *Integrated*

bankruptcy trustee is already suing to unwind – is equally applicable in this context.

Agri, 313 B.R. at 427 (“A creditor who had the right to bring, outside of bankruptcy, a UFTA claim to recover prepetition transfers fraudulently made by the debtor, has no standing to commence or continue the suit during the bankruptcy case, until and unless the trustee relinquishes the Section 544(b) claim or the trustee no longer has a viable cause of action.”); *cf. In re MortgageAmerica Corp.*, 714 F.2d 1266, 1275-76 (5th Cir. 1983) (concluding that actions “by individual creditors under state fraudulent conveyance laws would interfere with [the] estate and with the equitable distribution scheme dependent on it, and are therefore appropriately stayed Any other result would produce near anarchy”).¹⁵

The Individual Creditors seek refuge in the fact that the Committee supports their effort to bring

¹⁵ The cases that the Individual Creditors cite as counterexamples are distinguishable. (Opp. at 36-37; Arg. Tr. at 49:7-18.) In *Lumbard v. Maglia*, the bankruptcy trustee for an individual creditor and the bankruptcy trustee for that creditor’s debtor stipulated that they would “jointly prosecute,” under the same complaint, a fraudulent conveyance by the debtor, “dividing the eventual proceeds.” 621 F. Supp. 1529, 1532-33 (S.D.N.Y. 1985). Here, of course, only one of the parties is a bankruptcy trustee, and the parties are proceeding separately. In *Baron Fin. Corp. v. Natanzon*, the court determined that a creditor could bring suit for *different* misconduct than that which the bankruptcy trustee was litigating. 509 F. Supp. 2d 501, 520-21, 521 n.34 (D. Md. 2007). In *Integrated Agri*, the trustee’s time to bring a fraudulent conveyance action had expired, and it had filed no fraudulent conveyance claims, so the court permitted creditor fraudulent conveyance claims. 313 B.R. at 428-29.

SLCFC claims and that the Bankruptcy Court released the Individual Creditors to pursue those claims. (Opp. At 35-36.) Whether the Committee supports the Individual Creditors' SLCFC claims is of no moment. The Individual Creditors cite no authority for the proposition that a bankruptcy trustee's druthers may trump Section 362(a)(1), nor is the Court aware of any authority to that effect. With respect to the Bankruptcy Court, its decision is wholly inapposite to the question of standing, since the Bankruptcy Court expressly declined to decide that issue, leaving it to this Court.¹⁶

Bankruptcy is intended to consolidate multiple, potentially wasteful claims in one entity – the trustee. *See Ruppert*, 187 F.3d at 441-42; *St. Paul Fire*, 884 F.2d at 701. While the trustee acts, it cuts off the claims of creditors in order to seek a fair, orderly, and comprehensive resolution of the debtor's financial affairs so that, as much as it is possible, creditors are made whole. *See St. Paul Fire*, 884 F.2d at 701 (“If a claim is a general one, with no particularized injury arising from it, and if that claim could be brought by any creditor of the debtor,

¹⁶ The Bankruptcy Court took great pains to emphasize that it made “no finding and issue[d] no ruling determining the standing of the [Individual Creditors] to assert the Creditor SLCFC Claims” (Bankr. Decision ¶ 8 n.2.) Its decision to conditionally lift the stay against the Individual Creditors did not determine whether they “regained the right . . . to prosecute their respective [SLCFC] claims” simply because the two-year window on trustee fraudulent conveyance claims closed without the Committee filing a constructive fraud claim on behalf of the estate. (Bankr. Decision ¶ 2.)

the trustee is the proper person to assert the claim, and the creditors are bound by the outcome of the trustee's action.”). Here, the Committee has not completely abandoned its avoidance powers and is actively seeking to reverse the payouts made to the LBO beneficiaries. (See Committee SH Action Doc. No. 1 ¶¶ 317-320; Doc. No. 2565, Ex. 1 ¶¶ 376-381.) Unless and until the Committee actually and completely abandons those claims, the Individual Creditors lack standing to bring their own fraudulent conveyance claims targeting the very same transactions.

IV. CONCLUSION

Accordingly, for the reasons set forth above, the Court concludes that Section 546(e) does not preempt the Individual Creditors' SLCFC claims, but that Section 362(a)(1) nonetheless deprives the Individual Creditors of standing to avoid the same transactions that the Committee is simultaneously suing to avoid. Defendants' motion to dismiss is therefore GRANTED. The Clerk of the Court is respectfully directed to terminate the motions pending at Doc. No. 1670 of 11 MD 2296 and Doc. No. 61 of 12 MC 2296 and to close the cases listed in Exhibit A of this Memorandum and Order.

IT IS FURTHER ORDERED THAT Liaison Counsel in the Committee Actions shall confer with the parties remaining in this MDL and shall submit a joint letter to the Court no later than October 8, 2013, regarding the next steps in this litigation. In particular, the letter shall address whether the Litigation Trustee intends to proceed with its

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fraudulent conveyance claims or amend its Fifth Amended Complaint in order to abandon those claims. If the Litigation Trustee intends to seek leave to amend, the letter shall also set forth the parties' views as to the permissibility of such an amendment in light of, among other things, the Litigation Trustee's duties to Tribune's creditors. *See In re Lehal Realty Assocs.*, 101 F.3d 272,276 (2d Cir. 1996).

SO ORDERED.

RICHARD J. SULLIVAN
United States District Judge

Dated: September 23, 2013
New York, New York

APPENDIX C

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 22nd day of July, two thousand sixteen.

ORDER

**Docket Nos. 13-3992; 13-3875;
13-4178, 13-4196**

**IN RE: TRIBUNE COMPANY FRAUDULENT
CONVEYANCE LITIGATION**

NOTE HOLDERS, Deutsche Bank Trust Company Americas, Law Debenture Trust Company of New York, Wilmington Trust Company, INDIVIDUAL RETIREES, William A. Niese, on behalf of a putative class of Tribune Company retirees,

Plaintiff - Appellant-Cross-Appellees,

Mark S. Kirschner, as Litigation Trustee for the Tribune Litigation Trust,

Plaintiff,

TENDERING PHONE HOLDERS, Citadel Equity Fund Ltd., Camden Asset Management LLP and certain of their affiliates,

Plaintiff-Intervenors,

v.

LARGE PRIVATE BENEFICIAL OWNERS, FINANCIAL INSTITUTION HOLDERS, FINANCIAL INSTITUTION CONDUITS, Merrill Lynch, Pierce, Fenner & Smith, Inc., on behalf of a putative class of former Tribune Company shareholders, Pension Funds, including public, private, and Taft Hartlet Funds, INDIVIDUAL BENEFICIAL OWNERS, Mario J. Gabelli, on behalf of a putative class of former Tribune Company shareholders, MUTUAL FUNDS, AT-LARGE, ESTATE OF KAREN BABCOCK, PHILLIP S. BABCOCK, DOUGLAS BABCOCK, DEFENDANTS LISTED ON EXHIBIT B

Defendant - Appellee-Cross-Appellants,

CURRENT AND FORMER DIRECTORS AND OFFICERS, Betsy D. Holden, Christopher Reyes, Dudley S. Taft, Enrique Hernandez, Jr., Miles D. White, Robert S. Morrison, William A. Osborn, Harry Amsden, Stephen D. Carver, Dennis J. FitzSimons, Robert Gremillion, Donald C. Grenesko, David Dean Hiller, Timothy J. Landon, Thomas D. Leach, Luis E. Le, Mark Hianik, Irving Quimby, Crane Kenney, Chandler Bigelow, Daniel Kazan, Timothy Knight,

Thomas Finke, SAM ZELL AND AFFILIATED ENTITIES, EGI-TRB, LLC, Equity Group Investments, LLC, Sam Investment Trust, Samuel Zell, Tower CH, LLC, Tower DC, LLC, Tower DI, LLC, Tower EH, LLC, Tower Gr, LARGE SHAREHOLDERS, Chandler Trusts and their representatives, FINANCIAL ADVISORS, Valuation Research Corporation, Duff & Phelps, LLC, Morgan Stanley & Co. Inc. and Morgan Stanley Capital Services, Inc., GreatBanc Trust Company, Citigroup Global Markets, Inc., CA PUBLIC EMPLOYEE RETIREMENT SYSTEM, CALPERS, UNIVERSITY OF CA REGENTS, T. ROWE PRICE ASSOCIATES, INC. MORGAN KEEGAN & COMPANY, INC., NTCA, DIOCESE OF TRENTON-PENSION FUND, FIRST ENERGY SERVICE COMPANY, MARYLAND STATE RETIREMENT AND PENSION SYSTEM, T BANK LCV QP, T BANK-LCV-PT, JAPAN POST INSURNACE, CO., LTD., SERVANTS OF RELIEF FOR INCURABLE CANCER (AKA DOMINICAN SISTERS OF HAWTHORNE), NEW LIFE INTERNATIONAL, NEW LIFE INTERNATIONAL TRUST, SALVATION ARMY, SOUTHERN TERRITORIAL HEADQUARTERS, CITY OF PHILADELPHIA EMPLOYEES, OHIO CARPENTERS' MIDCAP (AKA OHIO CARPENTERS' PENSION FUND), TILDEN H. EDWARDS, JR., MALLOY AND EVANS, INC., BEDFORD OAK PARTNERS, LP, DUFF AND PHELPS LLC, DURHAM J. MONSMA, CERTAIN TAG-ALONG DEFENDANTS, MICHAEL S. MEADOWS, WIRTZ CORPORATION,

Defendants.

Appellant-Cross-Appellees, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

A circular seal of the United States Second Circuit Court of Appeals is positioned over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" around its perimeter, with two stars on either side of the word "CIRCUIT".

APPENDIX D

11 U.S.C. § 544

§ 544. Trustee as lien creditor and as successor to
certain creditors and purchasers

Effective: June 19, 1998

(a) The trustee shall have, as of the commencement of the case, and without regard to any knowledge of the trustee or of any creditor, the rights and powers of, or may avoid any transfer of property of the debtor or any obligation incurred by the debtor that is voidable by--

(1) a creditor that extends credit to the debtor at the time of the commencement of the case, and that obtains, at such time and with respect to such credit, a judicial lien on all property on which a creditor on a simple contract could have obtained such a judicial lien, whether or not such a creditor exists;

(2) a creditor that extends credit to the debtor at the time of the commencement of the case, and obtains, at such time and with respect to such credit, an execution against the debtor that is returned unsatisfied at such time, whether or not such a creditor exists; or

(3) a bona fide purchaser of real property, other than fixtures, from the debtor, against whom applicable law permits such transfer to be

perfected, that obtains the status of a bona fide purchaser and has perfected such transfer at the time of the commencement of the case, whether or not such a purchaser exists.

(b)(1) Except as provided in paragraph (2), the trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of this title or that is not allowable only under section 502(e) of this title.

(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.

APPENDIX E

11 U.S.C. § 548

§ 548. Fraudulent transfers and obligations

(a)(1) The trustee may avoid any transfer (including any transfer to or for the benefit of an insider under an employment contract) of an interest of the debtor in property, or any obligation (including any obligation to or for the benefit of an insider under an employment contract) incurred by the debtor, that was made or incurred on or within 2 years before the date of the filing of the petition, if the debtor voluntarily or involuntarily—

(A) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made or such obligation was incurred, indebted; or

(B)(i) received less than a reasonably equivalent value in exchange for such transfer or obligation; and

(ii)(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;

(II) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital;

(III) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured; or

(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.

(b) The trustee of a partnership debtor may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within 2 years before the date of the filing of the petition, to a general partner in the debtor, if the debtor was insolvent on the date such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation.

(c) Except to the extent that a transfer or obligation

voidable under this section is voidable under section 544, 545, or 547 of this title, a transferee or obligee of such a transfer or obligation that takes for value and in good faith has a lien on or may retain any interest transferred or may enforce any obligation incurred, as the case may be, to the extent that such transferee or obligee gave value to the debtor in exchange for such transfer or obligation.

(d)(1) For the purposes of this section, a transfer is made when such transfer is so perfected that a bona fide purchaser from the debtor against whom applicable law permits such transfer to be perfected cannot acquire an interest in the property transferred that is superior to the interest in such property of the transferee, but if such transfer is not so perfected before the commencement of the case, such transfer is made immediately before the date of the filing of the petition.

(2) In this section--

(A) “value” means property, or satisfaction or securing of a present or antecedent debt of the debtor, but does not include an unperformed promise to furnish support to the debtor or to a relative of the debtor;

(B) a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency that receives a margin payment, as defined in section 101, 741, or 761 of this title, or settlement payment, as defined in section 101 or 741 of this title, takes for value to the extent of such payment;

(C) a repo participant or financial participant that

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receives a margin payment, as defined in section 741 or 761 of this title, or settlement payment, as defined in section 741 of this title, in connection with a repurchase agreement, takes for value to the extent of such payment;

(D) a swap participant or financial participant that receives a transfer in connection with a swap agreement takes for value to the extent of such transfer; and

(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.

(3) In this section, the term “charitable contribution” means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution--

(A) is made by a natural person; and

(B) consists of--

(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

(ii) cash.

(4) In this section, the term “qualified religious or

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charitable entity or organization” means--

(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.

(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if--

(A) such transfer was made to a self-settled trust or similar device;

(B) such transfer was by the debtor;

(C) the debtor is a beneficiary of such trust or similar device; and

(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by--

(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

(B) fraud, deceit, or manipulation in a fiduciary

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capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l* and 78*o*(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).

APPENDIX F

LIST OF PETITIONERS**Noteholder Petitioners**

Deutsche Bank Trust Company Americas
 Law Debenture Trust Company of New York
 Wilmington Trust Company

Retiree Petitioners

Abatemarco, Fred A.	(widow of Dow C. Carpenter)
Alcantar, Gerald J.	
Alfano, Richard S.	Carroll, John S., estate of c/o Lee Carroll, executor
Armstrong, C. Michael	
Arnold, Gary M.	Casey, Kathleen M.
Arthur, John M.	Chandhok, Rajender K.
Barlow, William H.	Charles, Randolph R.
Barrett, David S.	Clayton, Janet T.
Barwick, Bruce E.	Clifford, Patrick A.
Becker, Todd A.	Clurman, Andrew W.
Bell, George	Coffey, C. Shelby, Iii
Bell, Susan P.	Coppens, Stuart K.
Bergmann, Horst A.	Cotliar, George J.
Blood, Edward L.	Crawford, William D.
Brandt, Robert F.	DeYoung, Barbara R.
Brauer, Alan L.	Dill, John F.
Brennan, Leo	Dilworth, Ann E.
Brief, Kenneth H.	Downing, Kathryn M.
Brisco, Robert N.	Dreher, Beverly A.
Campbell, Patricia G.	Drewry, Elizabeth V.
Carpenter, Dian S.	

Dubester, Michael S.	Helin, James D.
Dyer, John M.	Hessler, Curtis A.
Erburu, Robert F., estate of c/o Lois Erburu	Higby, James H.
Esgro, David A.	Higby, Lawrence M.
Falk, Joanne K. (survivor of Eugene Falk)	Holton, Raymond
Fitzgerald, James E.	Horn, Karen Laukka
Forgione, Michael J.	Howard, Leslie M.
Forst, Donald H., estate of	Howe, Mark E.
Fox, Douglas B.	Hughes, Joseph M.
Furukawa, Vance I.	Ibarguen, Alberto
Goldstein, Gary P.	Imbriaco, James
Gottsman, Edward J., estate of	Isenberg, Steven L.
Graham, Kenneth, estate of c/o Marian Lewis, executor & trustee	Isinger, William R.
Grant, Robert T.	Jansen, Raymond A., Jr.
Guerrero, Richard	Johnson, Edward E.
Guittar, Lee J.	Johnson, Robert M.
Guthrie, James F.	Johnson, W. Thomas, Jr.
Guttry, Delynn T. (widow of Harvey V. Guttry)	Junck, Mary E.
Halajian, Kenneth L.	Kabak, Scott W.
Hall, Charlotte H.	Kallet, Judith S.
Halle, Jean	Keller, William F.
Haugh, Michael J.	Kellermann, Donald S., estate of c/o Joan B. Kellermann, Executor & Trustee
Heaphy Durham, Janis	King, Victoria
	Klein, Jason E.
	Klein, Jeffrey S.
	Klutnick, Susan K.
	Kopper, James L.
	Kuekes, Sally, estate of c/o Kurt Kuekes, Executor
	Kurtich, Mark H.

LaFrance, Kimberly McCleary	Peterson, Maureen G. (widow of Larry W. Peterson)
Lankey, Jeffrey W.	Petty, Martha A.
Laventhol, David A., estate of	Plank, Jack L.
Lee Schneider, R. Marilyn	Redmond, Elizabeth F., estate of
Levin, Martin P.	Rhoads, S. Keating
Levine, Jesse E.	Riley, Michael R., estate of c/o Sue Riley
Magnuson, Robert G.	Rose, Michael G.
Maxwell, Donald S, estate of c/o Brad Maxwell	Rowe, William J.
McGuinness, Kathleen G.	Rubin, Jerome S., estate of c/o David Kahn
McKeon, John C.	Sann, Alexander
Meadows, Jack E.	Scally, Geraldine
Meier, Stephen C.	Schlosberg, Richard T., III
Molvar, Janie (alternate payee of Roger Molvar)	Schnall, Herbert K.
Molvar, Roger H.	Schneider, Charles I., Estate Of
Nash, John T.	Schneider, Hilary A.
Niese, William A.	Schneider, Howard S.
Niles, Nicholas H.	Sellstrom, Brian J.
Norris, James H.	Shaw, James D.
Nuckols, James H.	Shirley, Dennis A.
O'Neill, Nancy W.	Shorts, Gary K.
O'Sullivan, Robert T.	Simpson, James R.
Pandolfi, Francis P.	Sito, Louis
Parks, Michael C.	Stanton, Richard W.
Paro, Jeffrey N.	Sweeney, Judith L.
Payne, Janette O.	Sweeney, Stender E.
Perruso, Carol	Toedtman, James S.
Perry, Victor A.	Tunstall, Sharon S.

Udovic, Michael S.
Valenti, Michael J.
Wada, Karen J.
Wade, Claudia A.
Wallace, James W.
Waller, Michael E.
Wangberg, Larry W.
Weinstein, Howard
Wiegand, William D.
Wild, Mary A.
Willes, Mark H.
Williams, Phillip L.,
 Estate of c/o Diane
 Williams, Executor
Wilson, Hazel E.
Wilson, Julia C.
Woldt, Harold F., Jr
Wolinsky, Leo
Wright, Donald F.
Young, John W., estate
 of c/o Kathleen Young
Zakarian, John J., estate
 of c/o Paul Zakarian
Zapanta, Norene
 (trustee for Dr.
 Edward Zapanta trust)
Zimbalist, Efrem, III

APPENDIX G

LIST OF RESPONDENTS**Noteholder Respondents**

#502 U/W/O Minnette R. Eckhouse Trust	A. Hoyer
1199SEIU Greater New York Pension Fund, by and through its Board of Trustees	Abbey National Securities, Inc.
1199SEIU Health Care Employees Pension Fund, by and through its Board of Trustees	Abbott Laboratories Consolidated Pension Trust
1199SEIU Home Care Employees Pension Fund, by and through its Board of Trustees	Abdul W Moten and Michelle L Moten
1IA Spx1	Abigail Wallach
1 st Source Bank	ABP
1 st Source Bank, as an entity and as Trustee of the Robert Dishon Family Trust	Absolute Value Fund LP
3M Employees Welfare Benefits association Trust I	Abu Dhabi Investment Authority
A&P associates	Account BOS05-0702, John Doe, as Owner of
A. Erickson Shuster	Account PNC 4455065
	P&PNPF LSV, John Doe, as Owner of [Plumbers & Pipefitters National Pension Fund]
	Adage Capital Advisors Long
	Adage Capital Partners LP

Adaly Investment Management Corp.	Aegon/Transamerica Series Fund – TRP
Adaly Opportunity Fund LP	Aetna Inc.
Adaly Opportunity Fund	Aetos Capital LLC
Td Securities, Inc. c/o Adaly Investment Management Co.	Affiliated Private Investors U.S. Core Value Fund LLC
Administrator of Ohio Bureau of Workers' Compensation	Ag Edwards & Sons, Inc.
Administrator of Ohio Carpenters' Pension Fund	Agoralogos LLC
Administrator of Ohio Public Employees Retirement System	AIG Life Insurance Company [American General Life Insurance Company of Delaware a/k/a AIG Life Insurance Company]
Advanced Series Large Cap	AIM Counselor Series Trust [Invesco Counselor Series Trust]
Advanced Series Trust	AIM Variable Insurance Funds [Invesco Variable Insurance Funds]
Advantus Capital Management, Inc.	Alan Devaney
Advantus Series Fund, Inc.	Alan Devaney and Jill Devaney
Advantus Series Fund, Inc., as Owner of Advantus Series Fund, Inc. Index 500 Portfolio	Alan Gerry
Advisory Research, Inc.	Alaska Large-Cap Trust
Advisory Research, Inc. S&P 500 Index Equal Weight	Albert Einstein Medical Center Employees Retirement Trust
	Alberta Finance
	Alberta W. Chandler Marital Trust No. 2

<p>Alberta W. Chandler Marital Trust Uad 06/26/35 Alcatel-Lucent USA Inc., as Trustee of Lucent Technologies, Inc. Master Pension Trust Alex Damian Blum UGMA MD Alexander D. and Paula Solon Jtwros Alexander D. Solon Alexander Solon Alexander Solon Irra Fbo Alexander Solon c/o MLPF&S Cust FPO Alexandra Global Master Fund Ltd. Alfa-Tech, LLC Alfred C. Glassell III, acting Trustee and Beneficiary of the Alfred C. Glassell Jr. Children's Trust for Alfred C. Glassell, III Alfred C. Glassell III, acting Trustee of the Clare Attwell Glassell Continuing Marital Trust Alfred C. Glassell Jr. Alfred V. Tjarks Jr., as Trustee of the Alfred</p>	<p>V. Tjarks Retirement Plan DTD 02/18/85 Alfred W. Merkel, as Trustee of the Alfred W. Merkel Marlowe G. Merkel Trust UA 11 Sep 85 Alicia Patterson Guggenheim Trust Alison ford Duncan, acting Trustee and Beneficiary of the Alfred C. Glassell Jr. Children's Trust for Alison ford Duncan Alison S. Andrews, as Trustee of the Hannah Smith Trust Allan H. Willard, as Trustee of the Allan H Willard Trust U/A DTD 9/7/93 Allegro associates Allen C. Tanner, Jr. Allen Putterman MD SC Money Purchase Pension Plan Alliance Capital Group Trust Alliance Capital Management LLC Alliancebernstein LP</p>
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Alliancebernstein LP, in its Individual and Custodial Capacities	Alpine associates, a Limited Partnership
Alliancebernstein Trust (Alliancebernstein Value Fund)	Alpine Institutional LP
Allianz Invest KAG MBH	Alpine Partners LP
Aloysius J. Franz	Alvin Baum Jr. 1966 Trust
Alphadyne asset Management LLC	Alyce Tuttle Fuller, as a Trustee of the Trust by Alyce Tuttle Fuller U/A DTD 10/03/2003
Alphadyne International Master Fund Ltd.	AM International E Mac 63 Limited
Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Christine Gagnon	AM Master Fund III, LP
Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Helen Jo Cahalin	Amalgamated Bank
Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Lynn Ann Sharpe	Amelita M. Neiburger
Alpheus L. Ellis 1993 Great Grandchildren's Trust	Ameren Management Health Trust
Alpheus L. Ellis 1993 Trust Fbo Carol E. Martin	Ameren Services Company
Alpine associates II, LP	American Electric Power
Alpine associates Offshore Fund II Ltd.	American Electric Power Defined Benefit
Alpine associates Offshore Fund Ltd.	American Enterprise Investment Services Inc.
	Ameriprise Advisor Services, Inc. (f/k/a H&R Block Financial Advisors, Inc.)
	Ameriprise Enterprise Investment Services Inc.
	Ameriprise Trust Co.

Ameriprise Trust Company	Capital Management LLC
Ameriprise Trust Company f/k/a H&R Block Financial Advisors, Custodian, and Chester S. Cain, Beneficiary, Chester S. Cain ira	Amundi Investments Advisors USA, Inc. Amy W. Fong, as Trustee of the Amy W. Fong Living Trust
Ameriprise Trust Company, Custodian, and Michael J Krause, Beneficiary, Michael J. Krause Ira	Anadarko Petroleum Corporation Master Trust
Ametek, Inc. Employees Master Retirement Trust	Andrew Absler Andrew Absler and Lauren F. Absler
Ametek, Inc., as Administrator of the Ametek, Inc. Employees Master Retirement Trust	Andrew Boehm Andrew Boehm and Rita A. Boehm
Amici associates LP	Andrew J. Mckenna Trust
Amici Fund International Ltd.	Andrew Letts
Amici Qualified associates LP	Aneice R. Lassiter
Amida Capital Management LLC	Angelo D. Giancarlo
Amida Partners Master Fund Ltd.	Anima SGR S.P.A
Amida Partners Master Fund Ltd. / Non-Flip Account c/o Amida	Anima Societa Di Gestione c/o Bpm Capital Trust GSS LLC
	Ann B. Rhodes
	Ann C. Graff, as Trustee of the Ann C. Graff Trust
	Ann L. Bronfman, Individually and as Trustee of the Frances

Loeb Trust, Fbo Ann Bronfman	Trust U/A DTD 08/28/1997
Anna B. Schroer, acting Trustee of the Raymond & Anna Schroer Trust U/A DTD 09/28/2006	Anne-Marie S. Greenberg Annika De Goldmith, as Trustee of the Marital Trust of the De Goldsmith Family Trust
Anna H. Deming Anna Livingstone Anne G. Taylor Anne G. Taylor, as Trustee of the Trust by Walter E. Graham U/A DTD 10-16-2000	Anthony Y. Lin Antoinette B. Brumbaugh, Individually and as a Trustee of the Trust by Antoinette B. Brumbaugh U/A Dated 10/05/94
Anne Mccutcheon Lewis, as a Trustee of the John T. Mccutcheon Jr. Trust U/A DTD 10/26/87	Aon Corporation APG asset Management US, Inc. (f/k/a ABP Investments US, Inc.)
Anne Mccutcheon Lewis, as Trustee of the Anne Mccutcheon Lewis Trust U/A DTD 10/26/1987	AQR Absolute Return Master Account, LP AQR Capital Management LLC
Anne Mccutcheon Lewis, as Trustee of the Mary Shaw Mccutcheon Trust U/A DTD 10/26/1987	AQR Capital Management, LLC AQR Global Stock Selection HV Master Account Ltd.
Anne S. Scheiermann Reilly Anne Scheiermann, as Trustee of the Scheiermann Living	AQR Global Stock Selection Master Account, LP

AQR R. C. Equity Australia Fund	Armstrong World Industries, Inc.
Aqua America, Inc.	Retirement Master Trust
Archdiocesan Pension Plan of the Archdiocese of New York	Arnold D. Fong, as Trustee of the Amy W. Fong Living Trust
Archdiocese of Cincinnati	Arnold Manheimer
Archdiocese of Los Angeles	Arnold R. Weber
Archdiocese of Los Angeles Lay Employee Pension Plan	Arrow Distressed Securities Fund
Archdiocese of New York Master Trust	Arthur Blauzda
Argyll Research LLC	Arthur E Lee and Nancy L Lee
Ari Daniel Blum UGMA MD	Arthur E. Goldberg
Arie & Ida Crown Memorial	Arthur P. Heinz, as Trustee of the Nancy B. Heinz Family Trust
Arlene L. Posner	Arthur S. Casey Sb Advisor
Arline Doblin, as Trustee of the Nathan H. Perlman Trust B DTD 12/17/68	Arthur Shawn Casey
Armen J Adajian Trust U/A 9/15/80	Artis Aggressive Growth LP
Armen J Adajian, as a Trustee of the Armen J Adajian Trust U/A 9/15/80	Artis Aggressive Growth Master Fund LP
Armstrong World Industries, Inc.	Artis Capital Management LP
	Artis Partners (Institutional) LP
	Artis Partners 2x (Institutional) LP
	Artis Partners 2x LP
	Artis Partners 2x Ltd.
	Artis Partners LP

<p>Artis Partners Ltd. Arturo Quinones ASB Advisors LLC Asbestos Workers Local No. 32 Pension Trust Fund Asset Management Investors LLC AST QMA U.S. Equity Alpha Portfolio AST T. Rowe Price asset Allocation Portfolio Audrey Moran, as Trustee of the Jessie Ball Dupont Fund Austin Trust Company Automobile Club of Southern California Automobile Mechanics' Local 701 Pension Fund Automotive Industries Pension Trust Fund Automotive Machinists Pension Trust Fund Avery Dennison Corporation Master Retirement Trust Aviv Nevo AXA Equitable Funds Management Group, LLC AXA Equitable Life Insurance Co.</p>	<p>AXA Premier VIP Trust, Multimanager Large Cap Core Equity Portfolio AXA Premier VIP Trust, Multimanager Large Cap Value Portfolio Axelson Family Lmtd Partnership B H Gerald Rogers TTEE B H Gerald Rogers MD Ltd Employee Pension Trust U/A 07/01/84 Bacap Equity Fund XXI Bae Systems Land & Armaments, Inc. f/k/a United Defense LP Bakery, Confectionery, Tobacco Workers & Grain Millers International Pension Fund Baldwin Enterprises, Inc. Banc of America Securities LLC Bank of America Bank of America and Adolphus Busch Orthwein, Trustees, Clara Busch Orthwein IR Trust</p>
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Bank of America and Pierce Atwood, Trustees, Brumbaugh A B IRRY Trust	Sponsored and Administered Collective Investment Funds
Bank of America and Pierce Atwood, Trustees, Polly H. Werthman IRRRA Trust UA	Bank of America, National association Bank of America, National association as Directed Trustee of Bank of America Pension-T. Rowe Price
Bank of America as Trustee UA E L Sanford FAM Fbo ADA	Bank of America, National association as Trustee
Bank of America as trustee UA Earl W. Huntley Fbo Melinda	Bank of America, National association as Trustee of Lucy A. O'Connor Trust
Bank of America as Trustee UA Earl W. Huntley Fbo Pamela	Bank of America, National association as Trustee of Stephen L. O'Connor Trust
Bank of America as Trustee UA George W. Thoms Trust B	Bank of America, National association as Trustee of Trust under Agreement Carrington M. Lloyd, Jr. PLD
Bank of America as Trustee UA Joseph L. Molder	Bank of America, National association as Trustee of Trust under Agreement E L Sanford by Children/Mason
Bank of America Structured Research	
Bank of America, N.A. (Equity Index Trust)	
Bank of America, N.A. (Large Cap Value Index Trust of QA Collective Trust Series)	
Bank of America, N.A., as Trustee of its	

<p>Bank of America, National association as Trustee of Trust under Agreement E L Sanford Children/William</p> <p>Bank of America, National association as Trustee of Trust under Agreement E L Sanford FAM Fbo Mason</p> <p>Bank of America, National association as Trustee of Trust under Agreement E L Sanford FAM Fbo William</p> <p>Bank of America, National association as Trustee of Trust under Agreement Fbo Craig P Emmons</p> <p>Bank of America, National association as Trustee of Trust under Agreement J Sanford Children/ADA</p> <p>Bank of America, National association as Trustee of Trust under Agreement J Sanford Children/Mason</p>	<p>Bank of America, National association as Trustee of Trust under Agreement J Sanford Children/William</p> <p>Bank of America, Paul A. Silver and Joachim A. Weissfeld, Trustees, Sheila L Pellegrini 1961 Rev</p> <p>Bank of America, Trustee, and Judith E. Neisser, Beneficiary, Judith E Neisser Ira</p> <p>Bank of America, Trustee, BOA Pension- Bacap Largecap Index</p> <p>Bank of America, Trustee, BOA Pension- Cmg Largecap Index</p> <p>Bank of America, Trustee, Lee U. Gillespie Revocable Trust</p> <p>Bank of America, Trustee, Marian C. Falk for Alexandra</p> <p>Bank of America, Trustee, Mini TR U/A Edward H. Lindsay</p> <p>Bank of America, Trustee, Uw Ew Maske for Ruth M. Bennett</p>
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Bank of New York Mellon as Custodian for Barclays Capital Securities Limited	Barbara J. Kneeland Barbara K. Warner Barbara M. J. Wood Living Trust UA Dated 9/17/81
Bank of New York Mellon as Custodian for Coutts US Equity Index Programme	Barbara Martell Barbara Murphy Barbro Osher, as Trustee of Bernard and Barbro Osher 2006 Charitable Remainder Unitrust #2
Bank of New York Mellon as Custodian for Oddo & Cie (as Successor to Banque D'orsay)	Barclays Bank PLC Barclays Capital Securities Limited
Bank of New York Mellon Corporation	Barclays Capital Securities Limited as Successor to BZW Securities Limited
Bank of New York Mellon Corporation Retirement Plans Master Trust	Barclays Capital, Inc. Barnet Partners Ltd. Barrie A. Kass Barry David Kupferberg Barry David Kupferberg & Lori Banner Kupferberg JT Ten
Bank of New York Mellon, as Trustee of the Unisys Master Trust	Barry T. Werblow and Bari Werblow, Husband and Wife
Baptist Foundation of Texas	Basf Corp Pension Master Trust
Barbara Baugh	BATL PN-NTRS S&P
Barbara H. Alter 2002 Declaration of Trust Dated 12/12/2002	Battelle Memorial Institute
Barbara H. Alter, as Trustee of the Barbara H. Alter 2002 Declaration of Trust Dated 12/12/2002	

Baxter International, Inc.	Bernard Osher Trust Dated 03/08/88
Baylor Health Care System	Discretionary Account
Bear Stearns asset Management, Inc.	Bernard Osher, as Trustee of Bernard and Barbro Osher 2006
Bear Stearns Equity Strategies RT LLC	Charitable Remainder Unitrust #2
Bechtel Corp.	Bernard Osher, as
Bell Atlantic Master Trust	Trustee of Bernard Osher 2006 Charitable Remainder Unitrust #2
Bellsouth Corp. Non- Representable Health Care Trust	Bernard Osher, as
Bellsouth Healthcare S&P 500	Trustee of Bernard Osher Trust Dated 03/08/88 Discretionary Account
Bellsouth/Alliance	Bernard Rabinowitz, as
Benjamin Frank Oliva	Trustee of the Trust
Bernadette Cooley	Fbo Bernard
Bernadette Fingleton	Rabinowitz, U/A/D 09- 11-2006
Bernard and Barbro Osher 2006 Charitable Remainder Unitrust #2	Bernard Rabinowitz, as
Bernard E. & Edith B. Waterman Charitable Foundation	Trustee of the Trust for the Benefit of Bernard Rabinowitz U/A/D 09-11-2006
Bernard E. Waterman	Bernard Shapiro, as
Bernard E. Waterman and Edith B. Waterman	Trustee of the Bernard and Rena Shapiro Intervivos Trust A/C #1 Dated 10/15/87
Bernard Osher 2006 Charitable Remainder Unitrust #2	Bernard W. Lincicome

<p>Bernice K. Wattman as a Trustee of the Bernice K. Wattman Trust U/A DTD 11/01/2002</p> <p>Bernice K. Wattman Trust U/A DTD 11/01/2002</p> <p>Beth Leslie Ertel Bethesda Hospital Master Trust</p> <p>Bethesda Non- Retirement assets Master Trust</p> <p>Bethesda, Inc.</p> <p>Betsy D. Holden</p> <p>Bette Wendt Jore</p> <p>Betty Ann Altman, as Trustee Fbo the John & Betty Altman Family Trust Uad 05/16/86</p> <p>Betty Beaird, as Trustee of Betty Beaird Living Trust U/A DTD 4/10/87</p> <p>Betty Beaird, as Trustee of the Betty Beaird Living Trust UA 10- Apr-87</p> <p>Betty Ellen Berlamino</p> <p>Betty H. Roeland, as Trustee of the Survivors' Trust</p> <p>Betty K. Zlatchin</p>	<p>Betty Rich, Individually and as Trustee under Self-Declaration of Trust DTD 7-1-71</p> <p>Betty Roeland, as Trustee of the Betty H. Roeland Marital Trust</p> <p>Betty Roeland, as Trustee of the Roeland Family Trust UA 8/19/86</p> <p>Beverly Mackintosh, as Trustee of the Trust U/A DTD 8/22/1989 by Mary Coniglio</p> <p>Beverly Mackintosh, as Trustee of the Trust U/A DTD 8/22/1989 by Mary Coniglio Gsst Te Trust</p> <p>Beverly Perry Bgc Insurance Trust PLG</p> <p>Binhua Mao</p> <p>Binhua Mao Roth Ira</p> <p>Binhua Mao, Beneficiary</p> <p>Biying Zhang</p> <p>Black Box Corporation (Penson Financial Services Bbox)</p> <p>Black Diamond Arbitrage offshore Ltd. f/k/a Black Diamond</p>
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Arbitrage offshore LDC	(Russell 1000 Value Fund)
Black Diamond offshore Ltd.	Blackrock Institutional Trust Company, N.A.
Blackport Capital Fund Ltd.	(Russell 2500 Index Fund)
Blackrock	Blackrock Institutional
Blackrock Institutional Trust Company, N.A. (Equity Index Fund B)	Trust Company, N.A. (Russell 3000 Index Fund)
Blackrock Institutional Trust Company, N.A. (Equity Index Fund)	Blackrock Institutional Trust Company, N.A.
Blackrock Institutional Trust Company, N.A. (Equity Index plus Fund A)	(S&P 500 Index V.I. Fund)
Blackrock Institutional Trust Company, N.A. (Equity Value Fund)	Blackrock Institutional Trust Company, N.A.
Blackrock Institutional Trust Company, N.A. (Russell 1000 Alpha Tilts Fund BI)	(U.S. Equity Market Sudan Free Equity Index Fund)
Blackrock Institutional Trust Company, N.A. (Russell 1000 Index Fund)	Blackrock Institutional Trust Company, N.A.
Blackrock Institutional Trust Company, N.A. (Russell 1000 Value Fund B)	(U.S. Equity Market Fund A)
Blackrock Institutional Trust Company, N.A.	Blackrock Institutional Trust Company, N.A.
	f/k/a Barclays Global Investors N.A.
	Blackrock Institutional Trust Company, National association

f/k/a Barclays Global Investors, N.A.	Estate of Ward L. Quaal
Blackrock Variable Series Funds, Inc.	BMO Harris Bank, N.A., as Trustee of the Dorothy Quaal Revocable Trust UA 09/02/1993
Blandina Rojek	
Blandina Rojek Charitable Lead Trust	BMO Harris Bank, N.A., as Trustee of the Henry G. Barkhausen Trust Uad 12/14/36
Blend Decedent's Trust Uad 12/2/99	BMO Harris Bank, N.A., as Trustee of the Janet U. Embury Chln TR Grace FD
Blue Chip Fund, a Series of First Investors Equity Funds	BMO Harris Bank, N.A., as Trustee of the Janet U. Embury, Chln TR J Ley FD
Blue Chip Fund, a Series of First Investors Life Series Funds	BMO Harris Bank, N.A., as Trustee of the S. G. Harris Charity Trust Uad 6/13/45
Blue Cross and Blue Shield of Florida Inc	BMO Harris Bank, N.A., as Trustee of the S. G. Harris Mar TR 6/17/65
Blue Cross of California	BMO Harris Bank, N.A., as Trustee of the Stanley G. Harris Trust Uad 6/10/46
Blue Hills Bank (f/k/a Hyde Park Savings Bank)	BMO Harris Bank, N.A., as Trustee of the Stanton Armour Trust dated 2/10/66
Bmo Harris Bank N.A., as Successor by Merger to M&I Marshall and Ilsley Bank	
Bmo Harris Bank N.A., as Trustee of the Scripps Family Revocable Trust	
Bmo Harris Bank, N.A., as Executor of the	

BMO Harris Bank, N.A., as Trustee of the Ward L. Quaal Revocable Trust UA 09/02/1993	Board of Administration of the Water and Power Employees' Retirement Plan
BMO Nesbitt Burns Trading Corp., S.A.	Board of Directors of the Producer-Writers
BMO Nesbitt Burns, Inc.	Guild of America
BMO Nesbitt Burns, Inc./CDS	Pension Plan, as Administrator of the
BMR 2 LLC	Producer-Writers
BNA Employees' Retirement Plan	Guild of America Pension Plan
BNP Paribas Prime Brokerage, Inc.	Board of Education
BNP Paribas Securities Corp.	Retirement System of the City of New York
BNY Mellon Trust of Delaware	Board of Trustees of Empire State
BNY Mellon, in its Custodial Capacity	Carpenters Pension Fund, as
BNY Mellon, N.A., as Successor-In-Interest to Mellon Trust of New England, National association	Administrator of Empire State Carpenters Pension Fund
Board of Administration of the Los Angeles City Employees' Retirement System, as Administrator of the Los Angeles City Employees' Retirement System	Board of Trustees of Leland Stanford Junior University
	Board of Trustees of the Carpenters Pension Trust Fund for Northern California, as Administrator of the Carpenters Pension Trust Fund for Northern California

Board of Trustees of the Colleges of Applied Arts and Technology Pension Plan, as Administrator of Colleges of Applied Arts and Technology Pension Plan	Food Employers Joint Pension Trust Fund, as Administrator of the Southern California United Food and Commercial Workers Unions and Food Employers Joint Pension Trust Fund
Board of Trustees of the Cook County Pension Fund, as Administrator of the County Employees' and officers' Annuity and Benefit Fund of Cook County	Board of Trustees of the United Food and Commercial Workers Unions and Employers Midwest Pension Fund, as Administrator of the United Food and Commercial Workers Unions and Employers Midwest Pension Fund
Board of Trustees of the Directors Guild of America - Producer Pension Plan, as Administrator of the Directors Guild of America - Producer Pension Plan Basic Benefit Plan	Bob Fushimi Bodmas Capital Partners LP Bonnie Gonzalez Borden, Dillard R. Jr. and Salvatore J. Chilia, Trustees, National Electrical Benefit Fund
Board of Trustees of the Sheet Metal Workers' Local 73 Pension Fund, as Administrator of the Sheet Metal Workers' Local 73 Pension Fund	Boston Partners asset Management
Board of Trustees of the Southern California UFCW Unions and	BP America BP Pension Services Limited

BPM Capital Trust	Bruce Kirkpatrick
Bracebridge Capital LLC	Brumback Family LLC
Bradley A. Long	Building Trades United Pension Trust Fund
Bram Fierstein	Byrd Trading LLC
Bram Fierstein Gen PAR	C. Boynton Index 500 Portfolio
Brandes Investment Partners L.P.	C. Phelps
Brent V. Woods	California Ironworkers Field Pension Trust
Brent Woods, as Trustee of the Woods/Mitchell Family Trust	California Physicians' Service d/b/a Blue Shield of California
Bresler Family Investors LLC	California Public Employees Retirement System (Calpers)
Brian Mcgovern	California Public Employees Retirement System (Calpers) DC
Bricklayers & Trowel Trades Intl Pension Fund	California Public Employees Retirement System (Calpers)
Bristol-Myers Squibb Company Master Retirement Trust	California Public Employees Retirement System (Calpers)
Broadridge Business Process Outsourcing, LLC f/k/a Ridge Clearing & Outsourcing Solutions f/k/a Penson Financial Services, Inc./Ridge	Dynamic Completion Fund
Brookline Avenue Partners LP	California Public Employees Retirement System (Calpers) Judges Retirement System II Trust Cerbt Fund Trust Legislators Retirement System
Brophy Properties Inc.	Trust Long TE
Browne, William H.	
Bruce G. Murphy	

California Public Employees Retirement System (Calpers) Perf	Canyon asset Management
California Public Employees Retirement System (Calpers) Pooled S+P 500 Index Fund ACCT SK80	Canyon Balanced Master Fund Ltd. (f/k/a Canyon Balanced Equity Master Fund Ltd.)
California Public Employees Retirement System (Calpers) SW5J A/C Domestic Enhanced Index ST	Canyon Capital Advisors LLC
California State Teachers Retirement System	Canyon Value Realization Fund LP
Cambridge Appleton Trust Co.	Canyon Value Realization Mac 18 Ltd.
Camilla Chandler Family Foundation	Capital One Bank (USA), National association
Camilla Frost Chandler, as Trustee of Chandler Trust No. 1	Cara Leigh Gillespie-Wilson
Camilla Frost Chandler, as Trustee of Chandler Trust No. 2	Carl Zlatchin
Canadian Imperial Holdings Inc	Carl Zlatchin Profit Sharing Plan
Canning, John A Jr, Trustee, John A Canning Jr Rev TR U/A 3/15/94	Carlson Capital L.P.
Cantigny Foundation	Carlyle Hedrick
Cantor Fitzgerald & Co.	Carlyle Multi-Strategy Master Fund Ltd.
	Carlyle Paff Hedrick Tic
	Carmine Macchiaroli, as Trustee of the Carmine Macchiaroli Living Trust U/A 07/01/88
	Carol askin, as Trustee of the askin Family

Trust U/A DTD 09/27/1990	Carol E. Newman, as Trustee of the Carol E. Newman Revocable Trust UA 02-10-2006
Carol E. Jansson, as Trustee of the Trust by Carol E. Jansson U/A DTD 06/17/1998	Carol forace Carol S. Rowe
Carol E. Martin, as Trustee of the Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Christine Gagnon	Caroline D. Bradley Trust dated 11/30/51 Fbo Sarah Doll Barder Carpenters Pension Trust Fund for Northern California Carr Total Return Fund Carr Total Return Fund Limited Partnership
Carol E. Martin, as Trustee of the Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Helen Jo Cahalin	Carret asset Management Caryl Pucci Rettaliata Caryl W. Basoco
Carol E. Martin, as Trustee of the Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Lynn Ann Sharpe	Casey and associates, LLP
Carol E. Martin, as Trustee of the Alpheus L. Ellis 1993 Great Grandchildren's Trust	Cassandra Trading Group LLC Caterpillar Investment Trust
Carol E. Martin, Individually and as Trustee of the Alpheus L. Ellis 1993 Trust Fbo Carol E. Martin	Caterpillar, Inc. Group Insurance Master Trust
Carol E. Newman Revocable Trust UA 02-10-2006	Caterpillar, Inc. Retirement Master Trust Catherine A. Verduco, as Trustee of the Benjamin J. Verduco

Trust U/A DTD 12/13/1989	Central Pension Fund
Catherine A. Verdusco, as Trustee of the Francesca J. Verdusco Trust	Central States Teamsters Central States, Southeast and Southwest Areas Pension Fund
Catherine A. Verdusco, as Trustee of the Francesca J. Verdusco Trust U/A DTD 12/13/1989	Centurylink, Inc. Chandis Securities Company
Catherine Verdusco & Francesca J Verdusco Trust TR UA 12/13/89, Catherine J Verdusco, Trustee	Chandler Bigelow Chandler Bigelow and Elizabeth Bigelow Chandler Trust No. 1 Chandler Trust No. 2
Catholic Health West CHW	Charles Bresler
Catholic Healthcare West	Charles E. Edwards, as Trustee of the Charles E. Edwards Family Trust U/A DTD 04/11/1990 (Sub ACCT MLI)
Catholic United Investment Trust	Charles E. Hugel
Caxton associates LP	Charles Friedman
Caxton International Limited	Charles H. Spurgeon
CBS Master Trust	Charles Jasa, as Personal Representative of the Estate of Robert D. Nelson
CD Investment Partners Ltd.	Charles Joseph De Sieyes, as Trustee of the Trust under an Agreement dated
Cecil C. Smith	
Cedar Grove Cemetery association	
Cedar Grove Cemetery association Perpetual Care Reserve Fund	

December 13, 1976 Between Virginia S. Risley, as Settlor, and William H. Risley, Charles Joseph De Sieyes and United States Trust Company of New York, as Trustees	Charley Chunyu Lu & Biying Zhang Commercial Property Charlotte O'brien Charter Partners LP Chase L. Leavitt, as Trustee of the Philip B. Chase Revocable Trust dated 07/28/94
Charles Keates	Cheetah & Co.
Charles L. Edwards	Chemtura Corporation
Charles R. Baugh	Master Retirement Trust
Charles R. Baugh Jr and Barbara Baugh Jtwros	Cherry Jackson Sveen
Charles R. Baugh, Jr.	Cheryl R. Fox
Charles Schwab & Co., Inc.	Cheuk W. Yung
Charles Schwab & Co., Inc., as Trustee of the Francis Nessinger Ira Uta DTD 10/14/86	Chevy Chase Trust Company
Charles Schwab Investment Management, Inc.	Chicago Tribune Foundation
Charles T. and Mary Howe Brumback Descendants Trust	Chris P. Stepuszek
Charles T. Brumback, Jr.	Christiana Care Health Services Investment Fund
Charles T. Martin	Christiana Care Health Services, Inc.
Charles Thurman	Christiana Care Unrestricted Investment Fund
Charley Chunyu Lu	Christine Gagnon, Individually and as Trustee of the Alpheus L. Ellis 1993

Grandchildren's Trust Fbo Christine Gagnon Christopher Lindblad, as a Trustee of the Revocable Trust for the Benefit of Christopher Lindblad U/A/D 04-20- 2000	Citibank, N.A. as Custodian for Stark Investments D/B/A Deephaven Funds [Deephaven Growth Opportunities Trading Ltd. and Deephaven Event Trading Ltd.]
Christopher Reilly Christus Health Christus Health Cash Balance Plan	Citibank, National association, in its Individual and Custodial Capacities
Cibc World Markets Corp.	Citigroup Global Markets, Inc.
Cibc World Markets, Inc./CDS	Citigroup Pension Plan Trust, and Its Trustee, the Bank of New York Mellon, In Its Capacity as Trustee Thereof
Cigna Corporation	Citigroup Securities Services, Inc.
Cim Xvi LLC	City Employees' Retirement System of the City of Los Angeles
Cindy L. Schreuder	City National Bank
Ciri Gillespie	City of Daytona Police and Fire Pension
Citadel Derivatives Group LLC	City of Gainesville Police officers' and Firefighters' Retirement Plan
Citadel Equity Fund Ltd.	City of Los Angeles Fire and Police Pension Plan
Citadel Limited Partnership	
Citadel LLC (F/K/A Citadel Investment Group LLC)	
Citi Canyon, Ltd.	
Citi Goldentree Ltd.	
Citibank, N.A. as Custodian for Prism Partners offshore	

City of Richmond Rsrs	College Retirement
Clara B. Woody	Equities Fund
Clare Attwell Glassell, Individually and as the Beneficiary of the Clare Attwell Glassell Continuing Marital Trust	Colleges of Applied Arts and Technology Pension Plan
Claude Rosenberg, as Trustee of the Rosenberg Revocable Trust	Colorado Public Employees' Retirement association
Clear Cove Capital LP	Columbia Management Group [n/k/a Bofa Global Capital Management Group, LLC]
Clearwater Growth Fund	Comerica Bank & Trust, N.A., in its Corporate Capacity and as Sponsor of its Collective Investment Funds
Clearwater Investment Trust	Commercial Banking Client Rang
Clovia L. Fushimi	Commerzbank AG
CMCJL LLC	Commonwealth of Pennsylvania Tuition Account Program Fund
Cnh Master Account, LP	Conair Corporation
Cnh Partners, LLC	Connecticut General Life Insurance Company
Coastview Equity Partners LP	Connecticut Health Foundation
Cobalt Trading LLC	Connell Family Partnership Trust
Cogent Investment Strategies LLC	
Cogent Investment Strategies Master Fund, Spc - Class D	
Cogent Management, Inc.	
Collectors' Fund LP	

Connell Limited Partnership	Credit Suisse Securities (USA) LLC F/K/A
Conservative Balanced Portfolio A Series of Prudential Series Fnd Inc	Credit Suisse First Boston LLC
Consolidated Edison of NY K801	Creighton, Neal and Joan H. Creighton Jt TEN
Constance Tolbert Yeso Cooper Neff Advisors, Inc.	CSS LLC
Copper Nugget, Inc	CTC Fund Management LLC
Cornelia V. Tobey	Custodial Trust Co.
Cougar Trading LLC	Cutler Group LP
County Employees' and officers' Annuity and Benefit Fund of Cook County	D. E. Shaw Valence Portfolio LLC
Coutts Us Equity Index Programme	D. O'Donnell, as Trustee of the Dorothy P. O'Donnell Revocable Trust U/A DTD 04/25/1983
Cox Family Educational Trust Dated 08/02/2004	D.C. Retirement Board
Craig W. Dougherty	D.C. Retirement Funds
Crane Co. Master Trust	D.E. Shaw & Co. LP
Crane Kenney	D.E. Shaw & Company LLC
Crane Kenney and Kelly Kenney	D.E. Shaw Oculus Portfolios LLC
Crawford Company LLC	D.E. Shaw Valence Portfolios LLC
Credit Agricole Securities (USA), Inc.	D.E. Shaw Valence Portfolios LLC - Broad Core
Credit Suisse Securities (Europe) Limited	D.E. Shaw Valence Portfolios LLC - Long

Daily News Tribune, Inc.	Under Will of Thomas Carrter Lupton
Dain Rauscher	David A. Dichek
Daiwa Securities Trust Co.	David A. Dichek and Jane Doe Dichek, a Washington Marital Community
Dan Eric Miller, as Trustee of the Miller Family Trust	David C. De Sieyes
Danica F. Hughes	David C. De Sieyes, as Trustee of the Trust under an Agreement dated December 13, 1976 between Virginia S. Risley, as Settlor, and William H. Risley,
Daniel and Tracy Opat, as Individuals and as Trustees of a Certain Trust Document dated August 31, 2006	David C. De Sieyes, and United States Trust Company of New York, as Trustees
Daniel Braidwood	David D. Grumhaus 1990 Trust
Daniel Cohen	David D. Grumhaus, as a Trustee of the David D. Grumhaus 1990 Trust
Daniel Cohen and Barrie A. Kass	David E. Neisser Irrevocable Trust Dated 8-14-83
Daniel D. Pecaro, as Trustee of the Pecaro Family Trust DTD 4/12/02	David Ertel
Daniel J. Shea	David Greenspahn
Daniel Kazan	David Hochberg
Daniel R. Zuckerman	David L. Nelson, as Trustee of the David L.
Daniel S. Gregory	
Daniel S. Jursa	
Darrell F. Kuenzel	
Darrick O. Ross	
Daryl V. Dichek	
Davenport & Co. LLC	
Davenport, William L, Trustee, William M Davenport Trust	

Nelson Revocable Trust UA 02/11/91	Del Mar Master Fund, Ltd.
David L. Riley	Delaware Charter G&T TTEE
David M. Tenenbaum Jann G. Tenenbaum TTEE, D & J Tenenbaum RVCBL TR U/A 8/14/06	Delaware Charter Guarantee & Trust Delaware Charter Guarantee & Trust Co.
David P. Slesur	Delaware Charter
David R. Coggins Jr., as Trustee of the Wendy & Natalie Trust UW Walter Blum	Guarantee & Trust, as Trustee of the Herbert G. Lau Profit Sharing QRP Participation
David T.K. Lu Dbso Securities Ltd.	Deld Family Foundation Trust Uad 9/30/02
Dean P. Gillespie	Denise A. Meck
Deann K. Riley	Denise E. Palmer, as Trustee of the Denise Palmer Revocable Trust U/A/D 10-28- 1991
Declaration of Bell Family Trust Meadowbrook Equity Fund Ua 12/1/86	
Declaration of Bell Family Trust UA 12/1/86	Dennis Eugene De Haas Dennis J. Fitzsimons Dennis J. Fitzsimons, as a Trustee of the Dennis J. Fitzsimons Trust U/A DTD 03/29/2001
Deepak Agarwal Deephaven Capital Management LLC	
Deere & Company Welfare Benefit Trust #1	Dennis J. Fitzsimons, as a Trustee of the Dennis J. Fitzsimons Trust U/A DTD 03/29/2001 Pledged To MI Lender
Deere & Company, as Administrator of the John Deere Pension Trust	Dennis J. Layne Dennis S. Bunder

Depaul University	Deephaven Capital Management LLC
Depfa Bank, PLC	Deutsche Lufthansa AG
Depfa Bank, PLC (Hypo Real Estate Bank Int'l)	Devin J Murphy
Derek M. Dalton, as Trustee of the 10/03/2007 Dalton Trust	DFA Investment Dimensions Group, Inc.
Despina Haigler, as Trustee of the Richard Haigler & Despina Haigler Living Trust U/A 11/04/91	DFA U.S. Core Equity Fund of Dimensional Funds
Deutsche asset Management, Inc. (Scudder)	DFA U.S. Vector Equity Fund of Dimensional Funds
Deutsche Bank AG, Filiale Amsterdam	DIA Mid Cap Value Portfolio
Deutsche Bank AG, Frankfurt	Diamond Consolidated L.P.
Deutsche Bank AG, in its Custodial Capacity	Diamond, John B., as Trustee of the John B. Diamond Declaration of Trust dated April 15, 2010
Deutsche Bank Securities Inc. - DB AG Equity Swaps offshore Consolidated Account I	Diamond, Marilyn R., as Trustee, Marilyn R. Diamond Trust dated 11-11-88
Deutsche Bank Securities Inc., in its Individual and Custodial Capacities	Diamond, Terry and Muriel Diamond as Trustees U/W of Sol Diamond dated 12/4/72
Deutsche Bank Securities, Inc. as Custodian for	Diamond, Terry, Trustee, Terry D. Diamond Trust DTD 5/7/86

Diane A. Kucera, Individually and as Trustee of the Trust by Richard A. Kucera & Diane A. Kucera U/A/D 03-23-07 Fbo Richard & Diane Kucera	Health Care Employers Pension Fund
Diane Buchanan Wilsey Dictaphone Corporation Dimaio Ahmad Capital LLC	DL Partners LP DLD Family LLP Doheny Eye Institute Dolores C. Mierkiewicz Dolores Locascio
Dimensional Investment Group, Inc.	Dominion Resources, Inc.
Diocese of Buffalo Lay Pension Plan, by and Through its Board of Trustees	Dominion Resources, Inc. Defined Benefit Master Trust
Directors Guild of America - Producer Pension Plan Basic Benefit Plan	Don Hall, as Trustee of the Alpheus L. Ellis 1993 Great Grandchildren's Trust
Directors Guild of America Pension Trust	Don Hall, as Trustee of the Alpheus L. Ellis 1993 Trust Fbo Carol E. Martin
Directors Guild of America Producer Pension Trust	Donald Baron
Direxion Funds	Donald Baron, as a Trustee of the Don & Irene Baron Family Trust 7b-251
Direxion Insurance Trust	Donald F. Ray
District 1199J New Jersey Health Care Employers Pension Plan a/k/a District 1199J New Jersey	Donald Grenesko Donald Grenesko and Marcia Grenesko
	Donald H. Rumsfeld
	Donald L. Miller, as Trustee of the Trust by

Donald L. Miller U/A DTD 05/20/1982	Tommie L. Cordero Trust
Donald M. Fetherolf, as Trustee of the Fetherolf Family Trust	Dorothy J. Vance, as a Trustee of the Herbert Vance Trust Uad 8/9/71
Donald M. Hinman Jr. Donald Rooney	Dorothy L. Drummey, as Trustee of the Deld Family Foundation Trust Uad 9/30/02
Donavon Virgil Schuler, as Trustee UTD 01/18/88 of the Schuler Trust	Dorothy P. O'Donnell Revocable Trust U/A DTD 04/25/1983
Donna C. Lies	Dorothy Quaal, as A Trustee of the Dorothy Quaal Revocable Trust UA 09/02/1993
Doris Duke Charitable Foundation	Dorothy Russell Shattuck
Doris Keats Frank	Double Black Diamond offshore Ltd. f/k/a Double Black Diamond/offshore LDC
Doris Keats Frank, as Trustee of the Doris Keats Frank Revocable Trust UA 03/07/00	Douglas B. Stewart
Dorothy A. Levenson	Douglas E. Knee and Barbara J. Kneeland Joint Tenants with Rights of Survivorship
Dorothy B. Chandler Marital Trust No. 2 Uad 06/26/35	Douglas E. Kneeland
Dorothy B. Chandler Residuary Trust	Douglas H. Dittrick
Dorothy B. Chandler Residuary Trust No. 2	Dr. Charles J. De Sieyes
Dorothy C. Patterson Irrevocable Trust #2 Dated 12-21-93	Dr. David L. Hoexter
Dorothy D. Park	Dr. Peter Fairweather
Dorothy E. Hinze	
Dorothy Flibbert, as a Trustee of the 12/09/90	

Draper and Kramer Inc. (a/k/a DK/Equity LLC)	Decommissioning Trust
Drawbridge Global Macro Master Fund Ltd.	Duncan T Weaver Jr and Karen M Sorrell
Dresdner Bank, AG	Dundee Leeds Management Services (Cayman) Ltd.
Dreyfus Active Midcap Fund	Duquesne University of the Holy Spirit
Dreyfus Basic S&P 500 Stock Index Fund	Duquesne University– Equity Federated Investors, Inc.
Dreyfus Index Funds, Inc.	Durham J. Monsma
Dreyfus S&P 500 Stock Index Fund	Dws Equity 500 Index Portfolio
Dreyfus Stock Index Funds, Inc.	Dws Investments Vit Funds, as Issuer of a Series Known as Dws Equity 500 Index VIP
Dreyfus/Laurel Funds, Inc.	Dynamic Domestic Fund LP
DT Broad Market Stock Index Fund	E*Trade Capital Markets LLC
Duane Shelton Tydings, as Trustee of the Grace Trust	E*Trade Securities LLC
Dudley S. Taft	E. Donald Heymann, as Trustee of the E. Donald Heymann Trust
Duke Energy Corporation	E. Gallagher
Duke Energy Corporation Master Decommissioning Trust	Eac Management LP
Duke Power Company Non-Qualified Equity Nuclear	Eac Partners Master Fund Ltd.
	Eagle New Media Investments LLC

Earl E. Crowe Trust No. 2 Uad 06/26/35	Edward A. Cox, Jr., as Trustee of the Edward A. Cox, Jr. Revocable Trust DTD 5/21/2004
Eaton Vance Multi Cap Growth Portfolio	Edward D. Jones & Co., L.P.
Eaton Vance Tax Managed Global Buy Write Opportunities Fund	Edward E. Neisser Marital Trust
Eaton Vance Tax Managed Growth Portfolio	Edward J. Sidney, as Trustee of the Edward J. Sidney Trust U/A 07/22/76
Eaton Vance Tax Managed Multi-Cap Growth Portfolio	Edward T. McGowan Edwards, W L Jack, Trustee
Echotrade LLC	Edwin J. Hayes Jr.
Eddie Jones Jr., as Trustee of the Jessie Ball Dupont Fund	Edwin J. Hayes, as Trustee of the Trust by Edwin J. Hayes Jr. U/A DTD 5/26/2006
Edgar D. Gifford, as Trustee of the Edgar D Gifford Trust UA 7/15/98	Edwin R. Labuz Efh Retirement Plan Master Trust
Edith A. Ehrlich	Eighth District Electrical Pension Fund
Edith B. Waterman	Eileen C. Norris
Edmund D. Haigler Jr.	Eileen Marie Wirth
Edmund F Murphy Jr Mary P. Murphy Ttee, Edmund F Murphy Jr Rev Trust U/A 6/21/99	Eitner, Paul G
Edna F. Weber	Elaine Cheah-Richert
Edward A. Cox, Jr. Revocable Trust DTD 5/21/2004	Elaine T. Bovaird, as Trustee of the Trust by Elaine T. Bovaird U/A DTD 2/18/1993

<p>Elaine W. Getz, as Trustee of the Elaine W. Getz Trust UA 2/5/86</p> <p>Elaine W. Pettijohn, as Trustee of the Elaine W. Pettijohn Trust U/A 12/20/89</p> <p>Eleanor A. Kenyon Eleanor Jackson Stern Trust Dated 01/06/1971</p> <p>Electrolux Home Products, Inc. Master Trust</p> <p>Eliza Haskins</p> <p>Elizabeth Bigelow</p> <p>Elizabeth Dahan</p> <p>Elizabeth De Cuevas</p> <p>Elizabeth G. Chamberlain Trust U/A DTD 04/25/1979</p> <p>Elizabeth H. Vanmerkensteijn</p> <p>Elizabeth H. Wolff</p> <p>Elizabeth L. Levin, as Trustee of the Elizabeth L. Levin 2006 Sz-2 Year Grantor Retained Annuity Trust under Agreement dated 07/31/06</p> <p>Elizabeth Landon</p>	<p>Elizabeth Siegel, Acting Trustee of the Barbara M. Osborne Trust U/I/T DTD 2/7/05</p> <p>Elkhorn LLC</p> <p>Ellen J. Sutton</p> <p>Ellen Jackson</p> <p>Ellen Johnson Twaddell</p> <p>Ellen P. Caputo</p> <p>Ellen Warren</p> <p>Ellis Henican</p> <p>Elmer H. Wavering Family Trust dated 06/24/1977 as Amended</p> <p>Emanuel E. Geduld 2005 Family Trust</p> <p>Emanuel Gruss</p> <p>Embarq Corporation</p> <p>Emily A. Jefferson Ttee Emily A. Jefferson TR/Stock Account U/A 6/1/84</p> <p>Emily Evans Embrey, Beneficiary of the Alfred C. Glassell Jr. Children's Trust for Emily Evans Embrey</p> <p>Emily G. Plumb Charitable Trust dated 1/8/80 as Amended</p> <p>Emmas LP, A Partnership</p>
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Empire State	Eric I. Chang
Carpenters Pension	Eric Morris
Fund	Ernest W. Michel
Employee Retirement	Estate of Barbara
Income Plan Trust of	Hammond
Minnesota Mining &	Estate of Charles Pratt
Manufacturing Co.	Twichell UW HT
Employees Retirement	Clement for SP BC
System of Texas	QTIP Trust
Employers' Fire	Estate of Karen Babcock
Insurance Company	Estate of Robert C.
Enhanced Rafi U.S.	Gilkison
Large LP	Esther G. Fox
Enrique Hernandez Jr.	Eugene Taylor
Enzo S. Ricciardelli	Eugene Taylor and Rose
EQ Advisors Trust -	Marie Taylor JT Ten
EQ/Equity 500 Index	Eugene Tillman, as
Portfolio	Trustee of the Tillman
EQ Advisors Trust -	Family Trust U/A
EQ/Gamco Mergers	07/29/1980
and Acquisitions	Eureka Options LLC
Portfolio	Evangelical Lutheran
EQ Advisors Trust -	Church in America
EQ/Mid Cap Value	Board of Pensions
Plus Portfolio	Everest Re Group Ltd.
EQ Advisors Trust	Everest Reinsurance
(EQAT Equity 500	(Bermuda) Ltd.
Index)	Evergreen Asset
Equitec Specialists LLC	Management c/o
Equity Investment Fund	Prentice-Hall
Pooled Trust	Corporation System,
Equity League Pension	Inc.
Trust Fund	Evergreen Asset
Eric D. Werthman	Management Corp.

Everything Medical, Inc.	Federated Clover Value
Evol Capital	Fund (f/k/a Federated
Management, LLC	American Leaders
Evolution All-Cap	Fund)
Equity Fund	Federated Equity Funds
Excel Realty Fund LP	Federated Equity
Exxonmobil Investment	Income Fund, Inc.
Fund	Federated Income
Exxonmobil Investment	Securities Trust
Management Inc.	Federated Index Trust
F. Audrye Woller	Federated Insurance
F. Tong	Series
Fair Oaks LLC, as	Federated Investment
Trustee of the John N.	Counseling
Robson Trust B dated	Federated Investment
9/11/1970	Management Company
Fairweather Family L.P.	Federated Investors, Inc.
Fairweather Family LP	Federated Managed
Fairweather Limited	Volatility Fund II (f/k/a
Partnership	Federated Capital
Fairweather Ltd Ptrshp	Income Fund II f/k/a
R1F3154C, Custodian	Federated Equity
Farmers Group, Inc.	Income Fund II)
Fasken Ltd.	Federated Managed
Federal Reserve System	Volatility Fund II (f/k/a
Employee Retirement	Federated Capital
Fund	Income Fund II)
Federated Capital	Federated Max-Cap
Appreciation Fund Ii	Index Fund
(f/k/a Federated Clover	Federated MDT Stock
Value Fund II)	Trust
Federated Capital	Federated Muni and
Income Fund, Inc.	Stock Advantage Fund
	Felix Wen Guang Tong

Ferris Trading Fund LLC	Fidelity Management Trust Co. Cust Ira
Ferris, Baker Watts, Inc.	Rollover Fbo James Glynn
Fidelity Advisor Series I [Fidelity Advisor Leveraged Company Stock Fund, A Series of Fidelity Advisor Series I]	Fidelity Management Trust Co. Cust Ira Rollover Fbo Kuang C Yeh
Fidelity Commonwealth Trust [Spartan Market Index Fund, a Series of Commonwealth Trust]	Fidelity Management Trust Co. Cust Ira Rollover Fbo Lloyd A. Connors
Fidelity Concord Street Trust [Spartan 500 Index Fund and Spartan Total Market Index Fund, Series of Fidelity Concord Street Trust]	Fidelity Management Trust Co. Cust Ira Rollover Fbo Patrick J. Sloyan
Fidelity Management Trust Co. Cust Ira Fbo Carl V. Clark	Fidelity Management Trust Co. Cust Ira Rollover Fbo Ramachandra N. Kurup
Fidelity Management Trust Co. Cust Ira Fbo Devin J Murphy	Fidelity Management Trust Co. Cust Ira Rollover Fbo Robert A. Strutzel
Fidelity Management Trust Co. Cust Ira Fbo Robert G. Witt	Fidelity Management Trust Co. Ttee Alcatel- Lucent Savings Plan Fbo Kevin E. Dombkowski
Fidelity Management Trust Co. Cust Ira Rollover Fbo Gregory S. Simko	Fidelity Management Trust Co. Ttee PSRP PS David Kornfeld Fbo David N. Kornfeld

Fidelity Management Trust Co. as Trustee for Verizon Master Savings Trust [Verizon Master Savings Trust]	Fidelity Securities Fund]
Fidelity Management Trust Company, Custodian, and Leonard William Allen, Beneficiary, Leonard William Allen Ira Rollover	Fidelity US Equity Index Commingled Pool Fideuram Bank Luxembourg S.A. Fideuram Bank Luxembourg S.A. c/o Intesa Sanpaolo
Fidelity Management Trust Company, Custodian, and Michael Muskal, Beneficiary, Michael Muskal Ira Rollover	Fiduciary Company Incorporated Fiduciary Mgt. assoc. LLC 401k Fbo Robert Wesley Thornburgh
Fidelity Management Trust Company, Custodian, and Timothy L. O'Rourke, Beneficiary, Timothy L. O'Rourke Ira	Fiduciary SSB Fiduciary Trust Company International Fiduciary Trust Company International, as Trustee of a Trust Under an Agreement dated December 13, 1976 Between Virginia S. Risley, as Settlor, and William H. Risley, Charles Joseph De Sieyes and United States Trust Company of New York, as Trustees
Fidelity Management Trust Company, Custodian, Bashar A. Mubashir Ira Rollover	
Fidelity Securities Fund-Leveraged Company Stock Fund [Fidelity Leveraged Company Stock Fund, A Series of	

Fiduciary Trust Company International, as Trustee of a Trust under an Agreement dated December 13, 1976 Between Virginia S. Risley, as Settlor, and William H. Risley, David C. De Sieyes, and United States Trust Company of New York, as Trustees	First Bank & Trust First Capital Alliance LP First Data Incentive Savings Plan Fbo John G. Kologi First Investors Life Series Fund Blue Chip Series First Investors Life Series Fund Utilities Series First Investors Utilities Income
Fiduciary Trust Company International, as Trustee of a Trust under an Agreement dated December 19, 1977 Between Virginia S. Risley, as Settlor, and William H. Risley and United States Trust Company of New York, as Trustees	First Midwest Bancorp First New York Securities LLC First Republic Bank Firststar Equity Index Fund First-Citizens Bank & Trust Company Fit Collective Investment Plan
Fierstein Company	Flexible US Equity Managers
Fifth Third Bank	Flexible US Equity Managers Portfolio 1 LLC
Financial Management Concepts Corporation	Florida Power Corp Non- Qual
First American Equity Index Fund	Floyd C. Sanger Jr., as Trustee of the Floyd C.
First American Investment Funds, Inc. – Equity Index Fund	

Sanger Jr. Trust U/A 3/11/86	Frank Dellaquila and Rosemary Dellaquila
Fm Global	Frank J. Bouzek, as
Fmc Technologies Inc. Defined Benefit Retirement Trust	Trustee of the Billie J. Bouzek Trust U/A 1/28/00
Folksamerica	Frank Maloney
Reinsurance Company	Frank Maloney and Kathleen Maloney
Fontaine, John T., Trustee, John T.	Frank Russell
Fontaine Trust under Will of Thomas Carrter Lupton	Investments Frank Russell Trust Company
Fordham University	Frank S. Tiernan
Forrestal Funding Master Trust	Frank W. Considine
Forsta Ap-Fonden	Frank W. Denius
Fortis Clearing Americas LLC 695	Fred J. Eychaner
Foulard & Co.	Fred Martell
Foundation for Anesthesia Education & Research	Frederick E Nielsen
Frances L. Cey, Individually and as a Trustee of the Cey Living Trust 5/14/87	Frederick Goldstein
Frances Loeb Trust, Fbo Ann Bronfman	Frederick S. Share, as Trustee of the Frederick S. Share Trust U/A DTD 11/04/88
Francis G. Duggan	Fredericka Paff
Francis L. Coolidge	Fredric Levenson
Francis Nessinger	Fredric Levenson and Dorothy A. Levenson
Frank Callea	Frost National Bank
	Full Value Partners LP
	Gabelli & Company, Inc.
	Gabelli 787 Fund Inc. - Gabelli Enterprise

Mergers and Acquisitions Fund f/k/a the 787 Fund Inc - AXA Enterprise Mergers and Acquisitions Fund	Gabelli Investor Funds, Inc. Gabelli Multimedia Partners, L.P. Gabelli Performance Partnership, L.P.
Gabelli ABC Fund	Gabelli Securities, Inc.
Gabelli Asset Management Company	Gabelli Value Fund, Inc. Gail C. Schlang
Gabelli Associates Fund	Gail D. Scripps, as Trustee of the Barry H. Scripps Trust
Gabelli Average Price 2	Gail Samos Johnson
Gabelli Equity Trust, Inc.	Gamco Asset Management, Inc.
Gabelli Foundation, Inc.	Gamco Investors, Inc.
Gabelli Funds LLC	Gamma Phi Beta Foundation, Inc.
Gabelli Funds, Inc. (Gabelli ABCFund)	Garland Foundation Trust No. 2
Gabelli Funds, Inc. (Gabelli Funds, Inc.) Bruce M. Alpert	Garnett Cohen, as Trustee of the Mary Owen Rosenthal Trust U/A DTD October 19, 1999
Gabelli Funds, Inc. (Gabelli) Bruce M. Alpert	Gary E. Pekala
Gabelli Funds, Inc. (the Gabelli asset Fund) Bruce M. Alpert	Gary S. Grossinger
Gabelli Funds, Inc. (the Gabelli Equity Inc FD) Bruce M. Alpert	Gaspare Locascio Gaspare Locascio and Dolores Locascio
Gabelli Funds, Inc. (the Gabelli Global Multimed TR) Bruce M. Alpert	G-Bar Limited Partnership Gcw Capital LLC Gdk, Inc.

Gdk, Inc. c/o Caxton associates LP	Gerald W. Agema
Gelert R. Ramage Jr.	Gerald W. Agema and Marcia L. Agema
Gene C. Mccaffery	Gerald W. Agema
General Board of the Global Ministries of the United Methodist Church's Collins Pension Plan	Revocable Trust U/A DTD 03/05/2003
General Dynamics Corporation Veba Trust	Gerald W. Agema, as a Trustee of the Gerald W. Agema Revocable Trust U/A DTD 03/05/2003
General Electric Company	Geraldo Rivera
General Motors Hourly- Rate Employee Pension Trust (Gmhrep Trust)	Gertrude K. Chisholm, as Trustee of the Trust U/W Charlene Frost
General Motors Investment Management Corp.	GGCP, Inc. (f/k/a Gabelli Funds, Inc.)
Genworth Financial Wealth Management	Gidwitz Art Ventures
George E. Keeler	Gina Mazzaferri
George J. Peckham, as Trustee of U/A/D 07- 14-2000 Fbo the 2000 Peckham Family Trust	Gina Mazzaferri and Thomas Perry
George Lichtenstein	GJD Partners L.P.
George M. Moss	Glassell Family Foundation, Inc.
George W. Blossom III	Glaxosmithkline LLC
George William Buck	Glen W. Bell Jr., as Trustee of Declaration of Bell Family Trust Ua 12/1/86
Georges Marciano	Glen W. Bell, as Trustee of Declaration of Bell Family Trust
Georgette Pettijohn	Meadowbrook Equity Fund UA 12/1/86

Glenmede Trust Co.	and Custodial
Glenview State Bank	Capacities
Glorya Kaufman	Goldman Sachs
Survivor's Trust, Judy	Investment Strategies,
Marshall, Trustee	LLC, In Its Custodial
Gmimco Trust (General	and Investment
Motors) Bruce	Managerial Capacities
Marquand	Goldman Sachs Variable
Goldentree asset	Insurance Trust
Management LP	Goldman, Sachs & Co.,
Goldentree Master Fund	In Its Individual and
II Ltd.	Custodial Capacities
Goldentree Master Fund	Goldsher Investment
Ltd.	Co., Inc.
Goldentree	Goodrich Corporation
Multistrategy Ltd.	Master Trust for
Goldentree	Qualified Employee
Multistrategy offshore	Benefit Plans
Fund	Gordon Chamberlain, as
Goldfine, Morton and	Trustee of the
Adrienne M. Goldfine	Elizabeth G.
Goldman Sachs 1997	Chamberlain Trust
Exchange Place Fund,	U/A DTD 04/25/1979
L.P.	Governing Council of the
Goldman Sachs 1999	University of Toronto
Exchange Place Fund,	Government of
L.P.	Singapore Investment
Goldman Sachs 2005	Corporation PTE Ltd.
Exchange Place Fund,	GPC LX LLC
L.P.	GPS Funds I
Goldman Sachs	Grace M. Mitchell
Execution & Clearing,	Graham Capital
L.P., In Its Individual	Management, Limited
	Partnership

Graham Event Driven Ltd.	Guardian Investors Services LLC [RS S&P 500 Index VIP Series]
Graphic Arts IND JT Pension Trust	Guardian VC 500 Index Fund, John Doe as Owner of
Greatbanc Trust Company	Guggenheim Advisors LLC
Great-West Life assurance Co.	Guggenheim Portfolio Company XXXI LLC
Greenock Multi-Strategy Master Fund Ltd.	Guggenheim Portfolio LIX, LLC
Greenwich Capital d/b/a RBS Greenwich Capital	Guidemark Large Cap Value Fund (f/k/a assetmark Large Cap Value Fund)
Greg Guma, as Trustee of the Jesse Lloyd Guma Irrevocable Trust U/A DTD 7-5-96	Guidestone Equity Index Fund
Gregory J. Caputo	Guidestone Funds
Gregory J. Caputo and Ellen P. Caputo	Gulco Corp.
Gregory Reyftmann	Gwendolyn Garland Babcock
Gregory S Simko	Gwendolyn G. Babcock
Griffith E. Madigan, as Custodian of Griffith Patrick Madigan Utma Wi	Hach Scientific Foundation
Gryphon Hidden Values VIII L.P.	Halcyon Asset Management LLC f/k/a Halcyon Management Co. LLC
Gryphon Hidden Values VIII Ltd.	Halcyon Diversified Fund L.P.
Guarantee & Trust Co. Guardian	Halcyon Fund LP

Halcyon offshore Enhanced Master Fund LP	Byrd Jr Revocable Trust
Halcyon Special Situations, L.P.	Harry F. Byrd, Jr., as Trustee of the Thomas T. Byrd Trust UA 01/25/82
Halliburton Co.	
Hanna Jonas Miller	Harry F. Byrd, Jr., as
Hannah Smith Trust	Trustee of Thomas T Byrd TR UA 01/25/82
Harbor Capital Advisors, Inc.	Harry F. Byrd Jr Revocable Trust
Harbor Capital Group Trust	Harry Glasspiegel, as Trustee of the Harriet H. Glasspiegel D1 Trust U/A 6/21/89
Harbor Mid Cap Value Fund	
Harold R. Lifvendahl Trust dated 9/7/1988	Hartford Investment Management Company
Harold R. Lifvendahl, as Trustee of the Harold R. Lifvendahl Trust Dated 9/7/1988	Hartford Life Insurance Company
Harriet H. Glasspiegel, as Trustee of the Harriet H. Glasspiegel D1 Trust U/A 6/21/89	Harvard Management Co.
Harrington Bischof, as Trustee of the Harrington Bischof Trust Uad 9/15/97	Harvard University Harvest AA Capital LP Harvest Capital LP
Harris Corp. Retirement Trust	Harvey B. Plotnick, as Trustee of the Harvey B. Plotnick Declaration of Trust u/a/d March 16, 1988
Harry F. Byrd, Jr.	Harvey Bookman
Harry F. Byrd, Jr., as Trustee of the Harry F.	Harvey Mudd College Harvey R. Heller Havens Advisors LLC

Havens Partners Enhanced Fund LP	Trustee of the Alpheus L. Ellis 1993
Havens Partners LP	Grandchildren's Trust
Hc Capital Trust	Fbo Helen Jo Cahalin
Hc Capital Trust - the Value Equity Portfolio	Helen K. Dohm
Headwaters Holdings LLC	Helena Pai
Hearst Equity Appreciation Plan	Henry G. Barkhausen Trust Uad 12/14/36
Hedgehog Capital LLC	Henry L. Adamic Jr
Hedonic Capital LLC	Henry M. Harper Jr., as Trustee of the Henry M. Harper Jr. Trust UA 12/22/93
Helen Brown	Henry P. Albrecht, as Trustee of the Henry P. Albrecht Revocable Trust U/A 1/21/74
Helen Brown, Jean Samos and Gail Samos	Herbert Anthony Clark Jr.
Helen Bittenwieser Trust 7/28/38	Herbert G. Lau Profit Sharing QRP Participation
Helen Garland Trust No. 2 Fbo Gwedolyn Garland Babcock Uad 06/26/35	Herbert Vance, as a Trustee of the Herbert Vance Trust Uad 8/9/71
Helen Garland Trust No. 2 Fbo Hillary Duque Garland	HFF I LLC
Helen Garland Trust No. 2 Fbo William M. Garland III Uad 06/26/35	HFR Asset Mgmt LLC
Helen Grossman, as Trustee of the Helen Grossman Trust Dated 09/08/99	HFR Rva Whitebox Master Trust (f/k/a HFR RVA Combined Master Trust)
Helen Jo Cahalin, Individually and as	HHS Partnership Highmark, Inc.

Hilda Flynn	Horizon Golden Partners LP
Hillary Duque Garland	
Hiller, David	Horwitz, Donald
Himan Brown Revocable Trust	Horwitz, Lola L
Himan Brown, TR UA	Houston Endowment, Inc.
11/20/02 Himan Brown Revocable Trust	Howard Berkowitz
HOC GST Exempt Trust No. 2 Fbo John Haskins	Howard E. Mazur
HOC GST Exempt Trust No. 2 Fbo Scott Haskins	Howard F. Ahmanson Jr. Revocable Trust
HOC GST Exempt Trust No. 2. Fbo Eliza Haskins Uad 06/26/35	Howard F. Ahmanson Jr., as Trustee of the Howard F. Ahmanson Jr. Revocable Trust
HOC Trust No. 2 Fbo Eliza Haskins Uad 06/26/35	Howard J. Trienens, as Trustee of the Paula Miller Trienens Trust Dated 9-18-91
HOC Trust No. 2 Fbo John Haskins Uad 06/26/35	Howard J. Trienens, as Trustee under Self-Declaration of Trust dated 9-18-91
HOC Trust No. 2 Fbo Scott Haskins Uad 06/26/35	Howard M Ross TTEE Mary Ross Irrev Trust U/A 09/13/99
Homeland Insurance Company of New York	Howard Resnick
Hon. Harry F. Byrd Revocable Trust U/A DTD 1/25/82	Howard Wong
Honeywell International Inc. Master Retirement Trust	Hoyer/Lemts
	Hsueh-Mei Pu and Jane Doe Pu, a Washington Marital Community
	Huang, Tao and Xiaomei Huang
	Hudson Bay Fund LP

Hudson Bay Master Fund Ltd.	IBM Retirement Funds
Hugh F. Fagan	Icap Corporates LLC
Huntington	Ice Bear Incorporated, an Alaska Corporation
Huntington National Bank	Iglesia Metodista Del Peru
Hussman Econometrics Advisors, Inc.	Illinois Municipal Retirement Fund
Hussman Investment Trust	Illinois State Board of Investment
Hussman Strategic Growth Fund	Illinois Student assistance Commission
Hypo Real Estate Bank Int'l	IM Margaret K Crane Trust
I.B.E.W. 103	Imogene S. Peckham, as Trustee of U/A/D 07-14-2000 Fbo the 2000 Peckham Family Trust
Ian Fierstein	Imperium Insurance Company (f/k/a Delos Insurance Company)
Ian Fierstein Gen Par	Ina Tillman, as Trustee of the Tillman Family Trust U/A 07/29/1980
Ibew Local 103 Trust Fund	ING Investment Trust Co.
Ibew Local 25 Mastertrust Plans	ING Investors Trust [ING T. Rowe Price Equity Income Portfolio, ING Large Cap Value Port., ING Us Stock Index Port., Series of ING Investors Trust]
Ibew Local 25 Retirement Funds Master Trust	
Ibew Local 98 Pension Plan Mv	
Ibew–Neca Equity Index Fund	
IBM Netherlands Msci Us [Stichting Pensioenfond IBM Nederland]	
IBM Personal Pension Plan Trust	

Inka MBH a/k/a Internationale Kapitalanagegesellsch aft MBH a/k/a HSBC Inka	Intersil Equity, Inc. Fund
Intech Investment Management LLC	Intl. Union Painters & Allied Trades Industry Pension Fund
Intel Corporation	Invenio Partners LP
Interactive Brokers Group	Invesco Perpetual
International Brotherhood of Electrical Workers Pension Benefit Fund	Invesco Spg Index Trust
International Brotherhood of Painters and Allied Trades Union & Industry Pension Fund	Investors Bank & Trust
International Business Machines Corporation	Invoc [Investment Operating Company LLC]
International Monetary Fund Staff Retirement Plan	Iolaire Investors LLP
International Union of Operating Engineers	Iolaire Investors LLP c/p ASB Advisors LLC
International Union of Operating Engineers Local 14-14B Pension Fund, by and through its Board of Trustees	Ipac Asset Management
Intersil Equity Income Fund	Ira Willis Baker Jr.
	Irene Baron, as a Trustee of the Don & Irene Baron Family Trust 7b-251
	Irene M. F. Sewell
	Irene M. F. Sewell and Timothy Sewell
	Irene M. Freutel Rev Trust U/A DTD 04/28/2001
	Irene M. Freutel, as a Trustee of the Irene M. Freutel Rev Trust U/A DTD 04/28/2001
	Irene M. McNulty
	Iris B. Mahoney, as a Trustee of the Iris B.

Mahoney Revocable Trust U/A/D 04/10/98	Ishares Trust (Ishares Russell 1000 Value Index Fund)
Iris Elston, as Trustee of the Iris Elston Trust Uad 5/30/95	Ishares Trust (Ishares Russell 3000 Index Fund)
Ironworker Employees' Benefit Corporation, as Administrator of the California Ironworkers Field Pension Trust	Ishares Trust (Ishares Russell 3000 Value Index Fund)
Irving & Varda Rabin 1992 Revocable Trust	Ishares Trust (Ishares Russell Midcap Index Fund)
Irving Rabin, as Trustee of the Irving & Varda Rabin 1992 Revocable Trust	Ishares Trust (Ishares Russell Midcap Value Index Fund)
Irwin Grossinger Trust dated 9/1/65	Ishares Trust (Ishares S&P 500 Index Fund)
Ishares Trust (Ishares Dow Jones U.S. Consumer Services Sector Index Fund)	Ishares Trust (Ishares S&P 500 Value Index Fund)
Ishares Trust (Ishares Dow Jones U.S. Index Fund f/k/a Ishares Dow Jones U.S. Total Market Index Fund)	J & M Marshall T/U/D
Ishares Trust (Ishares Morningstar Mid Value Index Fund)	J Mcwethy and Jane Doe Mcwethy, Husband and Wife
Ishares Trust (Ishares Russell 1000 Index Fund)	J. Christopher Reyes
	J. Mccutcheon Iii, as Trustee of the Mary Shaw Mccutcheon Trust U/A DTD 10/26/1987
	J. Mcwethy and Jane Doe Mcwethy, Husband and Wife

J. Oldendorf, as Trustee of the Dorothy P O'Donnell Revocable Trust U/A DTD 04/25/1983	Community Property Trust dated 03/15/1985
J.M. Smucker Company	Jacuzzi Brands, Inc.
J.P. Morgan	Jacuzzi Brands, Inc.
J.P. Morgan Securities LLC f/k/a J.P. Morgan Securities Inc.	Defined Benefit (a/k/a Jacuzzi Brands, Inc. Master Pension Plan, Jacuzzi Brands, Inc. Master Trust, and/or Jacuzzi Brands, Inc. Retirement Savings & Investment Plan)
J.P. Morgan Securities Ltd.	James A. Crumley
J.P. Morgan Securities, LLC f/k/a J.P. Morgan Securities Inc.	James A. Friedberg, as Trustee of the Herman R. Friedberg Revocable Trust
J.P. Morgan Services, Inc.	James B. Kerr III Trust U/W Agnes R Kerr DTD 7/2/1977
J.P. Morgan Whitefriars Inc.	James B. Kerr, III, as Trustee of James B. Kerr III Trust U/W Agnes R Kerr DTD 7/2/1977
Jack D. Mcmanus	James C. Warren
Jack D. Mcmanus and John R. Mcmanus	James Chan
Jack R. Mcdonald	James Dietz
Jackson Capital Ptrs, LP Main LP	James E. Cushing, Jr.
Jackson Capital Ptrs, LP-Main-Pl	James E. Cushing, Jr. and Therese M. Cushing, a Washington Marital Community
Jacksonville Police & Fire Pension Board of Trustees Trust	James E. Pearson
Jacqueline E. Autry, as Trustee of the Autry	

James F. Hoge Jr.	Jane B. White, as
James F. Kerr Jr.	Trustee of the Jane B.
James F. Kerr Jr. and	White Trust UA
Nancy E. Kerr	10/17/02
James G. Up De Graff,	Janet U. Embury Chln
as Trustee of the	Tr Grace FD
James G. Up De Graff	Janet U. Embury, Chln
Trust U/A 01/15/04	TR J Ley FD
James H. Eckhouse, as	Janice Williams
Trustee of #502 U/W/O	Barnard, as Trustee of
Minnette R. Eckhouse	the Trust for the
Trust	Benefit of John F.
James King	Barnard Uad 4/4/03
James King and Judie	Jann M. Reardon, as a
King	Trustee of the Trust by
James L. Lockwood, Jr.	John and Jann
James M. Lachey	Reardon U/A DTD
James Mateja	11/03/1999
James Rothermel	Janna L. Gadden
James Rothermel and	Janney Montgomery
Mary Rothermel	Scott LLC
James T. Smith, as a	Janus Capital Group
Trustee of the Trust by	Jason Bernzweig and
James T. Smith U/A	Marylyn Bernzweig
DTD 10/09/1995	Jason H Camassar and
James Thomas Wirth	Carolyn I Camassar
James Thomas Wirth	Jason P. Smith
and Eileen Marie	Javad Rassouli
Wirth	Jay Goldman & Co., LP
James Zerwekh	Jay Goldman Master LP
Jamie A. Simins	Jean Cheloni
Jane B. White Trust Ua	Jean Curry Glassell,
10/17/02	Acting Trustee and
	Beneficiary of the

<p>Alfred C. Glassell Jr. Children's Trust for Jean Curry Glassell Jean F. Bell Jean Samos Jean Shaulis Black, as Trustee of the Jean S. Black Trust Jeanette M. Duggan Jeanne Caplice, as a Trustee of the William Caplice Revocable Trust Jefferies & Company, Inc. Jefferson R. Solender Jeffrey C. Neal Jeffrey Chandler Jeffrey Chandler, as Trustee of Chandler Trust No. 1 Jeffrey Chandler, as Trustee of Chandler Trust No. 2 Jeffrey J. Appleby, as Trustee of the Christopher J. Appleby Trust U/A DTD 12/13/89 Jeffrey J. Appleby, as Trustee of the Felicity J. Appleby Trust U/A DTD 12/13/89</p>	<p>Jeffrey J. Appleby, as Trustee of the James F. Polk Trust U/A DTD 12/13/89 Jeffrey P Mcclanathan, as Trustee of the William R Hough Charitable Remainder Unit Trust dated 12/21/2001 Jeffrey Risley Jeffrey Schatz Jenifer B. Mcintosh Jennifer G. Hines Jennifer Gross, as Trustee of the Martha Gross Living Trust U/A/D 04/14/1996 Jennifer Grumhaus Daly Jerome & Maria Markowitz Jtwros Jerome A Manning, as Trustee of the Frances Loeb Trust, Fbo Ann Bronfman Jerome Blank, as Trustee of the Jerome Blank Declaration of Trust Jerome Kahn, as Trustee of the Jerome Kahn Jr. Revocable Trust DTD 10/16/87 Jerome M. Wells</p>
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Jerome Markowitz	Jianshi Mao
Jerome P. and Melanie M. Martin	Jill Devaney
Jerome P. Martin	Jill E. Berube, as Trustee of #502 U/W/O
Jerry J. Wolfe	Minnette R. Eckhouse Trust
Jerry Lower	Jill E. Eckhouse, as Trustee of #502 U/W/O
Jesse Fierstein	Minnette R. Eckhouse Trust
Jesse Fierstein Gen Par	Jill Kaplin (a/k/a Jill Kaplin Herz)
Jesse Lloyd Guma Irrevocable Trust U/A DTD 7-5-96	Jim Hicks & Co. Employee Profit- Sharing Plan
Jesse Werthman	Jim Hicks, as Trustee of the Jim Hicks & Co. Employee Profit- Sharing Plan
Jessie Ball Dupont Fund	Jim Roche
Jessnick Partners LP	Joan E. Clark
Jewish Healthcare Foundation of Pittsburgh	Joan Ellis Van Loan
JHF II Equity-Income Fund	Joan H. Creighton
JHF II Spectrum Income Fund	Joan L. Gilkison, Administrator CTA Estate of Robert C. Gilkison
JHT 500 Index Trust B, John Doe, as Owner of	Joan S. Freehling, as Trustee of the Ruth Stein Discretionary Trust for Joan Uad 1/2/80
JHT 500 Index Trust, John Doe as Owner of	Joanna Sturm
JHT Equity Income Trust, John Doe, as Owner of	
JHT Mid Value Trust, John Doe, as Owner of	
JHT New Income Trust	
JHT Total Stock Market Index Trust, John Doe, as Owner of	

Joanne Desherow Sanger, as Trustee of the U/A DTA 03/29/04 Joanne Desherow Sanger Living Trust	John Deere Pension Trust John Doe, as Administrator of Bakery, Confectionery, Tobacco Workers & Grain Millers International Pension Fund
Joe Frank	John Doe, as Administrator of Central Pension Fund
Joe Youssry Kelada	John Doe, as Administrator of Evangelical Lutheran Church in America Board of Pensions
John A Levin, as Trustee of the Frances Loeb Trust, Fbo Ann Bronfman	John Doe, as Administrator of Hearst Equity Appreciation Plan
John A. Orb	John Doe, as Administrator of Ibew Local 25 Retirement Funds Master Trust
John A. Orb, as Trustee of the Trust for the Benefit of John A. Orb U/A/D/ 11/02/04	John Doe, as Administrator of Laborers District Council & Contractors Pension FD of Ohio
John B. Diamond Declaration of Trust dated April 15, 2010	John Doe, as Administrator of Mid- Atlantic Regional
John B. Lloyd Jr., as Trustee of the John B. Lloyd Jr. Revocable Trust	
John Bird Lloyd Jr., as Trustee of the Madge A.L. Macneil 1988 Family Trust	
John Cheloni	
John Cheloni and Jean Cheloni	
John D. & Catherine T. Macarthur Foundation	
John D. Lane Revocable Trust U/A DTD 9/19/96	

Council of Carpenters Pension Plan John Doe, as Administrator of New York City District Council of Carpenters Pension Fund John Doe, as Administrator of New York City District Council of Carpenters Welfare Fund John Doe, as Administrator of Onebeacon Insurance Savings Plan John Doe, as Administrator of Onebeacon Insurance Savings Plan – Equity 401k John Doe, as Administrator of Onebeacon Insurance Savings Plan – Fully Managed John Doe, as Administrator of Ontario Pension Board John Doe, as Administrator of the Archdiocese of Los Angeles Lay Employee Pension Plan	John Doe, as Administrator of the Building Trades United Pension Trust Fund John Doe, as Administrator of the City of Daytona Police and Fire Pension John Doe, as Administrator of the Ibew Local 98 Pension Plan Mv John Doe, as Administrator of the International Brotherhood of Electrical Workers Pension Benefit Fund John Doe, as Administrator of the Teamsters Joint Council No. 83 of Virginia Pension Fund John Doe, as Administrator of the Virginia College Savings Plan John Doe, as Administrator of the Virginia Retirement System John Doe, as Administrator of the
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Waterman Broadcasting Corp Employee Profit Sharing Plan U/A 01/01/1974 John Doe, as Administrator of Tre Pension Eft Account Pension Payment System John Doe, as Administrator of Waterman Broadcasting Corp. Employee Profit Sharing Plan U/A 01/01/1974 John Doe, as Beneficiary and/Or Distributee of Kurt Adler Estate John Doe, as Beneficiary and/or Distributee of Leavitt J. Pope Estate John Doe, as Beneficiary and/or Distributee of Nancy G. Lezette Estate John Doe, as Custodian of the Robert Evans Ira John Doe, as Owner of C. Boynton Index 500 Portfolio	John Doe, as Owner of Dennis Eugene De Haas Tod John Doe, as Owner of Federated Investment Counseling John Doe, as Owner of Imperial U.S. Equity Pool John Doe, as Owner of Margaret T.M. Jones Cp & Co. AC John Doe, as Owner of Ohio National Strategic Value Portfolio John Doe, as Owner of Ohio Natl Fund, Inc. Strategic Value Portfolio John Doe, as Owner of Ssbt Omnibus Account John Doe, as Owner of Ssga Russell 1000 Value SL Fund John Doe, as Owner of Ssga S&P 500 Flagship Fund John Doe, as Owner of State Street Bank & Trust Co. / IBT- Account # 2 John Doe, as Owner of State Street Bank &
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Trust Company - S&P 500 Tobacco Free Index CTF	John Doe, as Owner of Tms/its Sett A/C for Tradeworx
John Doe, as Owner of State Street Global Advisors, Inc. - S&P 500 Equal Weight Ctf	John Doe, as Owner of Tms/its Sett A/C for Wr Multi-Strategy Master Fund Ltd.
John Doe, as Owner of State Street Global Advisors, Inc. Confidential Client Account	John Doe, as Owner of Tms/its Settlement Account for Agoralogos
John Doe, as Owner of State Street Global Advisors, Inc. S&P 500 Index CTF	John Doe, as Owner of Tms/its Settlement Account for HFF I LLC
John Doe, as Owner of the Northwestern Mutual Series Fund Inc. Equity Income Portfolio	John Doe, as Successor Trustee of Himan Brown Revocable Trust
John Doe, as Owner of the Northwestern Mutual Series Fund Inc. Index 500 Portfolio	John Doe, as Trustee for R.E. Ginna Nuclear Power Plant LLC Master Decommissioning Trust
John Doe, as Owner of the Northwestern Mutual Series Fund Inc. Small Cap Value Portfolio	John Doe, as Trustee for R.E. Ginna Qualified Decommissioning Trust
John Doe, as Owner of Tms/its Sett A/C for 05602646	John Doe, as Trustee for T. Rowe Price Equity Income Trust
	John Doe, as Trustee of 3m Employees Welfare Benefits association Trust I

John Doe, as Trustee of Archdiocese of New York Master Trust	John Doe, as Trustee of Equity League Pension Trust Fund
John Doe, as Trustee of Armstrong World Industries, Inc. Retirement Master Trust	John Doe, as Trustee of General Motors Hourly-Rate Employee Pension Trust (Gmhrep Trust)
John Doe, as Trustee of Avery Dennison Corporation Master Retirement Trust	John Doe, as Trustee of Graphic Arts Ind Jt Pension Trust
John Doe, as Trustee of Bethesda Nonretirement assets Master Trust	John Doe, as Trustee of Ibew Local 103 Trust Fund
John Doe, as Trustee of Bny Mellon Trust of Delaware	John Doe, as Trustee of IM Margaret K. Crane Trust
John Doe, as Trustee of Bpm Capital Trust	John Doe, as Trustee of Invesco SPG Index Trust
John Doe, as Trustee of Cbs Master Trust	John Doe, as Trustee of Jht New Income Trust
John Doe, as Trustee of Efh Retirement Plan Master Trust	John Doe, as Trustee of Kaman Corp. Mas Trust-LSV
John Doe, as Trustee of Emanuel E. Geduld 2005 Family Trust	John Doe, as Trustee of L3 Communications Corporation Master Trust
John Doe, as Trustee of Employee Retirement Income Plan Trust of Minnesota Mining & Manufacturing Co	John Doe, as Trustee of Marshfield Clinic Master Trust

John Doe, as Trustee of National Railroad Investment Trust	John Doe, as Trustee of the Alberta W. Chandler Marital Trust No. 2
John Doe, as Trustee of National Railroad Retirement Investment Trust	John Doe, as Trustee of the Alberta W. Chandler Marital Trust Uad 06/26/35
John Doe, as Trustee of Nsp-Monticello Minnesota Retail Qualified Trust	John Doe, as Trustee of the Alvin Baum Jr. 1966 Trust
John Doe, as Trustee of Sei Institutional Investments Trust	John Doe, as Trustee of the Andrew J. Mckenna Trust
John Doe, as Trustee of Sei Institutional Managed Trust	John Doe, as Trustee of the Automotive Industries Pension Trust Fund
John Doe, as Trustee of Td Emerald Hedged U.S. Equity Pooled Fund Trust	John Doe, as Trustee of the Barbara Clements Heller Revocable Trust DTD 3/22/01
John Doe, as Trustee of the Abbott Laboratories Consolidated Pension Trust	John Doe, as Trustee of the Barbara M. Osborne Interim Trust DTD 2/7/02
John Doe, as Trustee of the Alaska Large-Cap Trust	John Doe, as Trustee of the Blackburn Trust
John Doe, as Trustee of the Albert Einstein Medical Center Employees Retirement Trust	John Doe, as Trustee of the Blandina Rojek Charitable Lead Trust John Doe, as Trustee of the Caterpillar Investment Trust

John Doe, as Trustee of the Caterpillar, Inc. Group Insurance Master Trust	John Doe, as Trustee of the Dorothy B. Chandler Residuary Trust
John Doe, as Trustee of the Caterpillar, Inc. Retirement Master Trust	John Doe, as Trustee of the Dorothy B. Chandler Residuary Trust No. 2
John Doe, as Trustee of the Catholic United Investment Trust	John Doe, as Trustee of the Duke Energy Corporation Master Decommissioning Trust
John Doe, as Trustee of the Chemtura Corporation Master Retirement Trust	John Doe, as Trustee of the Duke Power Company Non- Qualified Equity Nuclear Decommissioning Trust
John Doe, as Trustee of the Connell Family Partnership Trust	John Doe, as Trustee of the Earl E. Crowe Trust No. 2 Uad 06/26/35
John Doe, as Trustee of the Deere & Company Welfare Benefit Trust #1	John Doe, as Trustee of the Electrolux Home Products, Inc. Master Trust
John Doe, as Trustee of the DFA Group Trust	John Doe, as Trustee of the Equity Investment Fund Pooled Trust
John Doe, as Trustee of the Dominion Resources, Inc. Defined Benefit Master Trust	John Doe, as Trustee of the Federated MDT Stock Trust
John Doe, as Trustee of the Dorothy B. Chandler Marital Trust No. 2 Uad 06/26/35	

John Doe, as Trustee of the Garland Foundation Trust No. 2	Trust No. 2 Fbo Scott Haskins
John Doe, as Trustee of the Helen Garland Trust No. 2 Fbo Gwedolyn Garland Babcock Uad 06/26/35	John Doe, as Trustee of the HOC Trust No. 2 Fbo Eliza Haskins Uad 06/26/35
John Doe, as Trustee of the Helen Garland Trust No. 2 Fbo Hillary Duque Garland	John Doe, as Trustee of the HOC Trust No. 2 Fbo John Haskins Uad 06/26/35
John Doe, as Trustee of the Helen Garland Trust No. 2 Fbo William M. Garland Iii Uad 06/26/35	John Doe, as Trustee of the HOC Trust No. 2 Fbo Scott Haskins Uad 06/26/35
John Doe, as Trustee of the HFR RVA Whitebox Master Trust (f/k/a Hfr Rva Combined Master Trust)	John Doe, as Trustee of the Hon. Harry F. Byrd Revocable Trust U/A DTD 1/25/82
John Doe, as Trustee of the Hoc GST Exempt Trust No. 2 Fbo Eliza Haskins Uad 06/26/35	John Doe, as Trustee of the J. Mcwethy Trust
John Doe, as Trustee of the HOC GST Exempt Trust No. 2 Fbo John Haskins	John Doe, as Trustee of the Jacksonville Police & Fire Pension Board of Trustees Trust
John Doe, as Trustee of the HOC GST Exempt	John Doe, as Trustee of the John D. Lane Revocable Trust U/A DTD 9/19/96
	John Doe, as Trustee of the John W. Stewart 1966 Trust Fbo C. Phelps

<p>John Doe, as Trustee of the Kaiser Permanente Rabbi Trust</p> <p>John Doe, as Trustee of the Lee U. Gillespie Revocable Trust</p> <p>John Doe, as Trustee of the Lsv Enhanced Index Core Equity Trust</p> <p>John Doe, as Trustee of the Manville Personal Injury Settlement Trust</p> <p>John Doe, as Trustee of the Marian Otis Chandler Trust No. 2</p> <p>John Doe, as Trustee of the Mary Sue Gatzert Trust dated 9-29-95</p> <p>John Doe, as Trustee of the May C. Goodan Trust No. 2</p> <p>John Doe, as Trustee of the Moc Chandler Trust No. 1</p> <p>John Doe, as Trustee of the Nancy R. Spiegel Rev Trust Uad 10/14/89</p> <p>John Doe, as Trustee of the Nsp-Minnesota Prairie I Retail Qualified Trust</p>	<p>John Doe, as Trustee of the Nsp-Minnesota Prairie Ii Retail Qualified Trust</p> <p>John Doe, as Trustee of the Otto J. Koch Trust U/A DTD Nov 18, 1992</p> <p>John Doe, as Trustee of the Patricia Crowe Warren Residuary Trust No. 2 Uad 06/26/35</p> <p>John Doe, as Trustee of the Philip Chandler Residuary Trust No. 2 Uad 06/26/35</p> <p>John Doe, as Trustee of the Pleasant T. Rowland Revocable Trust</p> <p>John Doe, as Trustee of the Qualified Cpuc Decom Master Trust</p> <p>John Doe, as Trustee of the Robert & Mildred Harris Trust</p> <p>John Doe, as Trustee of the Robert W. & Margaret A. Eder Rev Living Trust UA DTD 05/02/03</p> <p>John Doe, as Trustee of the Ruth C. Von Platen Trust No. 2</p>
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John Doe, as Trustee of the Scripps Family Revocable Trust	John Doe, as Trustee of the Trust by Walter K. Graham for the Benefit of Anne G. Taylor U/A DTD 10/16/2000
John Doe, as Trustee of the SDG&E Qualified Nuclear Decommissioning Trust	John Doe, as Trustee of the Victor Grossi Trust Ua DTD 05/08/98 Fbo Victor Grossi
John Doe, as Trustee of the Seiu Master Pension Trust	John Doe, as Trustee of the Wellspan Health Master Trust
John Doe, as Trustee of the Stanton R. Cook Charitable Remainder Trust	John Doe, as Trustee of the Ziegler Family Trust A
John Doe, as Trustee of the State Farm Insurance Companies Employee Retirement Trust	John Doe, as Trustee of Umwa 1974 Pension Trust
John Doe, as Trustee of the State Farm Variable Product Trust (Large Cap Equity Index Fund)	John Does 1-10, as Trustees of National Automatic Sprinkler Industry Pension Fund
John Doe, as Trustee of the T. Rowe Price Structured Research Common Trust Fund	John E. Mayasich, as Trustee of John E Mayasich Trust U/A DTD 04/23/2007
John Doe, as Trustee of the Terrill F. Cox & Lorraine M. Cox Trust U/A DTD 3/31/98	John E. Reardon John E. Reardon, as a Trustee of the Trust by John and Jann Reardon U/A DTD 11/03/1999
	John F. Barnard, Individually and as

Trustee of the Trust for the Benefit of John F. Barnard Uad 4/4/03	John Hancock Trust (New Income Trust))
John F. Llewellyn Living Trust	John Haskins
John F. Llewellyn, as Trustee of the John F. Llewellyn Living Trust	John Healey, as Trustee of the Grace Trust
John F. Mangan, Jr.	John J. and Rosemary Wagner Jtwros
John F. Poelking	John J. Mcdermott
John F. Poelking and Laurie H. Poelking	John J. Vitanovec, as Trustee of the John J Vitanovec Trust U/A DTD 12/27/1996
John F. Splain, as Trustee of the Hussman Investment Trust	John J. Vitanovec, as Trustee of the Kathleen Geary Trust U/A DTD 12/27/1996
John G. Kologi	John Lanfranki, as Trustee of the John Lanfranki & Virginia Lanfranki Trust 4/29/80
John H. Rhodes	John M. Altman, as Trustee Fbo the John & Betty Altman Family Trust Uad 05/16/86
John H. Rhodes and Ann B. Rhodes, a Washington Marital Community	John M. Lavine
John Hancock Financial Services, Inc.	John Mason Sanford
John Hancock Funds II	John Michael Kelleher
John Hancock Funds II (Equity-Income Fund)	John Mullooly
John Hancock Funds II (Spectrum Income Fund)	John Nesbit Rees and Sarah Henne Rees
John Hancock Variable Insurance Trust	Charitable Foundation
John Hancock Variable Insurance Trust (f/k/a	John Pritzker

John R. Black	of TR, Amend &
John R. Flanagan	Restatement U/A
John R. Loftus	1/15/98
John R. Mcmanus	John W. Madigan, as a
John R. Polatschek	Trustee of the John W.
John R. Staib	Madigan Trust U/A
John Spears	DTD 05/15/1998
John T. Mccutcheon Iii,	John W. Stewart 1966
as Trustee of the John	Trust Fbo C. Phelps
T. Mccutcheon III	John W. Stewart Ii, as
Trust U/A DTD	Trustee of the John
10/26/1987	Stewart Property
John T. Mccutcheon IV	Trust
as Trustee of the John	Joint Board of Trustees
T. Mccutcheon III	of the Southwest
Trust U/A DTD	Carpenters Pension
10/26/1987	Trust, as
John T. Mccutcheon Jr.	Administrator of the
Trust U/A DTD	Southwest Carpenters
10/26/87	Pension Trust
John T. O'Loughlin	Jon R. Lind
John T. Risley	Jonathan A. Knee
John T. Risley, as	Jonathan Gary Keith
Trustee of the Trust	Jonathan Kovler
Under An Agreement	Jonathan Osborne,
Dated December 19,	Acting Trustee of the
1977 Between Virginia	Barbara M. Osborne
S. Risley, as Settlor,	Trust U/I/T DTD 2/7/05
and William H. Risley	Jonathan Tillman, as
and United States	Trustee of the Tillman
Trust Company of New	Family Trust U/A
York, as Trustees	07/29/1980
John V Farwell IV Ttee	
John V Farwell IV Dec	

<p>Jonestrading Institutional Services LLC Joseph A. Young Joseph B. Mohn, as Trustee of the J&M Trust UA dated 07/23/1992 Joseph C. Linnen Joseph M. Fee, as Trustee of the Joseph M. Fee & Elizabeth Fee Revocable Living Trust Joshua Tree Capital Management LP Joy Leichenger, as Trustee of the Joy Leichenger Trust Jp Morgan Chase Bank, N.A., Trustee, the Boeing Company Employee Retirement Plan Jpmorgan Chase Bank National association Jpmorgan Chase Bank Trad Cust Ira of Raymond R Coffey Jpmorgan Chase Bank, National association Jpmorgan Chase Bank, National association as Trustee of the</p>	<p>Jpmorgan Chase 401(K) Savings Plan Jpmorgan Chase Funding Inc. f/k/a J. P. Morgan Ventures Corp. Judd S Alexander Foundation Inc. Judie King Judith Blazer, as Trustee of the Judith E. Blazer Living Trust U/A/D 10/21/96 Judith E. Blazer Living Trust U/A/D 10/21/96 Judith E. Neisser, as Trustee of the David E. Neisser Irrevocable Trust dated 8-14-83 Judith N H Weiss Judith N. Weiss, as Trustee of the Alexander J. Weiss Irrevocable Trust U/A 10/12/06 Judy C. Webb, as Trustee of Chandler Trust No. 1 Judy C. Webb, as Trustee of Chandler Trust No. 2 Julia K. Rosenwald Julia Neitzert Trust</p>
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Julia Neitzert, as Trustee of the Julia Neitzert Trust	10/03/2007 Dalton Trust
Julio Arriaga	Karen Hammond, as Trustee of the
Jung E. Lee	Hammond Family
Jupiter Capital Partners LLC	Trust U/A/D 02/11/88
Jupiter Medical Center	Karen Rapkin
Foundation Permanent Endowment General Fund	Karl Putnam
Jupiter Medical Center Foundation, as Administrator of the	Katherine T. Goldberg
Jupiter Medical Center Foundation Permanent Endowment General Fund	Kathleen B. Flynn, as Trustee of Declaration of Bell Family Trust Meadowbrook Equity Fund Ua 12/1/86
Jyg Limited Partnership #2 G-Bar	Kathleen B. Flynn, as Trustee of Declaration of Bell Family Trust Ua 12/1/86
Kaiser Foundation Health Plan, Inc.	Kathleen Geary, as Trustee of the John J Vitanovec Trust U/A DTD 12/27/1996
Kaiser Foundation Health Plans and Hospital	Kathleen Geary, as Trustee of the Kathleen Geary Trust U/A DTD 12/27/1996
Kaiser Permanente Rabbi Trust	Kathleen M. Ringel
Kaman Corporation	Kathleen Maloney
Kaman Corporation Mas Trust-LSV	Kathryn Vorisek, as a Trustee of Fiduciary Mgt. assoc. LLC 401k Fbo Robert Wesley
Karen Babcock and Phillip S. Babcock	Thornburgh
Karen E. Dalton, as Trustee of the	Kathy Kuzmich

Kathy Rex Hundley	Kevin D O'Brien Trust
Kathy Rex Hundley and Thomas W. Hundley	DTD 8-18-03
Kathy Spinato	Kevin D. O'brien, as Trustee of the Kevin D
Kay Walsh, as Trustee of #502 U/W/O	O'Brien Trust DTD 8- 18-03
Minnette R. Eckhouse Trust	Kevin D. O'brien, as Trustee of the Sarah A.
Kbr Employee Benefit Master Trust	O'brien Trust DTD 8- 18-03
Keith Matthews	Kevin L. Ringel
Keller, Linda B	Kevin L. Ringel and Kathleen M. Ringel
Kellogg Brown & Root, Inc.	Kevin Stone
Kellogg Capital Markets LLC	Kiener LP
Kelly Kenney	Kimberly Brumback
Kenkel, Paul J.	Kimberly Rizzo
Kenneth Cahn	Kimberly Schatz
Kenneth Cahn, as Trustee of the Dorothy	Kirsten Konrad
Cahn Trust UA	KPC US Equity LLC
07/03/1981	Krystyna Jurzykowski
Kenneth E. Nichols	Kurt Adler Estate
Kenneth J. Vydra, as a Trustee of the Kenneth	L. Dean Davenport
J. Vydra Trust No. 101	L. Michael Schmitt
U/A/D 03-10-2006	L.D.C.C.
Kenneth Mitchell	L3 Communications
Kenneth Puglisi	Corporation Master Trust
Kenneth R. Posner	Laborers District Council & Contractors
Kenneth R. Posner and Arlene L. Posner	Pension FD of Ohio
Kenneth Weiss	Laborers National Pension Fund
	Labranche & Co. LLC

Labranche Structured Products LLC	Lawrence J Blum Ttee Lawrence J Blum Trust U/A 1/30/06
Lacera	Lawrence M. Pucci
Lakonishok Corp	Lawrence Smith
Langdon Street Capital, L.P.	Leavitt J. Pope Estate
Large Cap Equity Index Fund	Lebsack, Erik
Larry L. Bloom, as a Trustee of the Larry L. Bloom Trust 11-21-95	Lee U. Gillespie Revocable Trust
Lasers	Legacy Fund
Latigo Master Fund Ltd.	Legacy Trust Company, N.A., Acting Trustee of the Alfred C. Glassell Jr. Children's Trust for Emily Evans Embrey
Latigo Partners LP	Legg Mason Batterymarch Financial Management S&P 500 Index Fund, a Series of the Legg Mason Partners Equity Trust
Lauralyn D. Matos	Legg Mason Partners
Lauren F. Absler	Lei Jin
Laurence A Weiss and Judith N H Weiss	Lenox Hill Hospital
Laurie H. Poelking	Leonard F. Hill, as Trustee of the Hill Revocable Living Trust DTD 12/24/91
Laurie H. Weaver, as Trustee of the Helen Grossman Trust dated 09/08/99	Leonor Blum
Laurie Mitchell, as Trustee of the Woods/Mitchell Family Trust	Leroy Davis, as Trustee of the Jessie Ball Dupont Fund
Lawrence B. Buttenwieser, Esq., as Trustee of the Helen Buttenwieser Trust 7/28/38	Leslie Payne
Lawrence F. Klima	
Lawrence H. Burks	

Lewis Taman	Featherer Trust U/A/D
LFT Partnership	June 12, 1992
Liberty Financial	Lisa Pritzker
Services, Inc.	Lispensard Street Credit
Liberty Harbor Master	Fund LP
Fund I, LP	Lispensard Street Credit
Liberty Mutual Life	Master Fund Ltd.
Insurance Company	Lloyd Ferguson
Lidia Horvath	Lloyd Wendt
Lighthouse Partners	Lma Spc for and On
LLC / Lma Spc Obo	Behalf of Map I
Map I Segrgtn Prtf c/p	Segregated Portfolio
Lighthouse Partners	Local 102 Pension/No
LLC	TR Val Im
Lightning Trading LLC	Local 134 Pension Plan
Linda Axelson	No. 5 S&P 500 Fund
Linda Eigner	Local 134 S&P 500
Linda Molenda	Index Fund
Linda Robin Cahn	Locals 302 and 612 of
Lindsay Mccutcheon, as	the International
Trustee of the John T.	Union of Operating
Mccutcheon III Trust	Engineers–Employers
U/A DTD 10/26/1987	Construction Industry
Linnet F. Myers	and Michael Parmalee
Lisa A. Schuster, as	Welfare and Pension
Executor of the	Administration
Beverly A. Perry	Locals 302 of the
Estate	International Union of
Lisa G. Haas	Operating Engineers
Lisa M. Featherer	Construction Industry
Lisa M. Featherer Trust	Retirement Fund
U/A/D June 12, 1992	Locals 612 of the
Lisa M. Featherer, as	International Union of
Trustee of the Lisa M.	Operating Engineers

Construction Industry Retirement Fund	Loomis Sayles Credit Alpha Fund
Lockheed Martin Corporation	Lorena P. Huber
Lockwood Brothers, Inc.	Loretta C. Finlay, as a Trustee of the Loretta C. Finlay Trust
Lockwood, Karen L, Trustee, Karen L	Lori Ann Talarico
Lockwood Rev Trust U/A/D 07/30/1998	Lori Banner Kupferberg
Loeb Arbitrage B Fund LP	Los Angeles City Employees' Retirement System
Loeb Arbitrage Fund	Lou Ann Murphy
Loeb Arbitrage Management LP	Louis G. Gilbert
Loeb offshore B Fund, Ltd.	Louise Rosenberg, as Trustee of the Rosenberg Revocable Trust
Loeb offshore Fund, Ltd.	LP MA1 Ltd.
Loeb Partners Corporation	LPL Financial LLC
Lois D. Kaliebe, as a Trustee of the Trust by Mrs. Lois D. Kaliebe U/A DTD 03/05/1993	LSV Enhanced Index Core Equity Trust
Loisanne R. Flaherty, as Trustee of the Loisanne R. Flaherty Trust U/A DTD 09/23/2004	LSV US Large Cap Long/Short Fund LP
Lola Lloyd Horwitz, as Trustee of the Marni Horwitz Trust Dated January 22, 1998	LSV Value Equity Fund
Lombardi & Co., Inc.	Luanne G. Joys, as Trustee of the Sargeant & Luann Joys Living Trust
Long, Justin	Lucent Technologies, Inc. Master Pension Trust
	Lucile M. Dunn, as Trustee of the Lucile

Mcvey Dunn Trust U/A DTD 12/19/91	M&J Investment Group L.P.
Luis E. Lewin	M&T Bank (f/k/a
Lutheran Brotherhood	Manufacturers &
Lynda M. Freedman	Traders Trust Co.)
Lynn Ann Sharpe,	M&T Bank Vision Mid
Individually and as	Cap Stock Fund
Trustee of the Alpheus	M&T Bank, as Trustee
L. Ellis 1993	of the W. Milton Jr.
Grandchildren's Trust	Trust under Will for
Fbo Lynn Ann Sharpe	the Benefit of Anna
Lynn R. Wolfson Trust	Livingstone
Lynn R. Wolfson, as	M. B. Marshall T/U/D
Trustee of the Lynn R.	M. Joyce as Trustee of
Wolfson Trust	the Sara Joyce Trust
Lynne Shotwell, as	U/A DTD 12/7/2005
Trustee of the Elmer	M. Safra & Co., Inc.
H. Wavering Family	Madge A. L. Macneil
Trust dated 06/24/1977	Trust
as Amended	Madge A. L. Macneil, as
Lyondell Petrochemical	Trustee of the Madge
Corporation Defined	A. L. Macneil Trust
Benefit	Madge A.L. Macneil
Lyra Capital LLC	Madison Proprietary
Lyxor Alphadyne, Spc	Trading Group LLC
(f/k/a Lyxor Starway,	Madison Square
Spc F/K/A Sgam Ai	Investors Large-Cap
Starway, Spc)	Enhanced Index
Lyxor/Black Diamond	Collective Fund f/k/a
Arbitrage Fund	Nylim Large-Cap
Limited	Enhanced Index
Lyxor/Canyon Value	Collective Fund
Realization Fund	Madison Square
Limited	Investors Us Large-

Cap Core 130/30 Collective Fund f/k/a Nylim Us Large-Cap Core 130/30 Collective Fund	VP S&P 500 Index Portfolio
Madison Square Large- Cap Enhanced Index Fund LP (f/k/a Nylim Large-Cap Enhanced Index Fund LP a/k/a Nylim-Qs Large Cap Enhanced Fund LP)	Malcolm Mcconnell Managed Pension Funds Limited (MFS Funds (UK))
Madison Street Fund LP	Manulife asset Management (US) LLC
Magnetar Capital LLC	Manulife Invst Ex Fds Corp.–Mix
Magnetar Financial LLC	Manulife Mutual Funds
Mainstay VP Funds Trust (f/k/a Mainstay VP Series Fund, Inc.), as Issuer of A Series Known as Mainstay VP Common Stock Portfolio	Manulife U.S. Equity Fund
Mainstay VP Funds Trust (f/k/a Mainstay VP Series Fund, Inc.), as Issuer of A Series Known as Mainstay VP Mid Cap Core Portfolio	Manville Personal Injury Settlement Trust
Mainstay VP Funds Trust (f/k/a Mainstay VP Series Fund, Inc.), as Issuer of A Series Known as Mainstay	Maple Partners America, Inc.
	Marcia Grenesko
	Marcia L. Agema
	Marcia Tingley
	Margaret Durkin
	Margaret K. Crane
	Margaret L. Sindelar
	Margaret Mangano, as Trustee of the Frank J. Mangano GST Non- Tax Exempt Trust U/A Dated 6/22/94
	Margaret Meister
	Margaret Meister and John Doe Meister, a Washington Marital Community

Margaret R. Coniglio, as Trustee of the Trust by Margaret R. Coniglio U/A DTD 08/22/1989	Marjorie Rozman and Nanette Rosenberg, Trustees U/A Dated 10/08/82 by Aliza Leah Rozman
Margaret S. Ritch	Marjorie Rozman, as Trustee of the Rappaport Family Trust U/A DTD 06/04/1992
Margaret T.M. Jones	Marjorie Rozman, as Trustee of the Trust U/A DTD 02/23/1981 by Michael Rosenberg
Margaret T.M. Jones CP & Co. AC	Marjorie Rozman, as Trustee of the Trust U/A DTD 11/02/1977 by Robert Rosenberg
Margaret U. Miller, as Trustee of the Miller Family Trust	Mark A. Hughes
Marguerite Payne Trust Dated 6/7/61 Fbo Virginia K. Townley	Mark Allen Itkin, as Trustee of the Mark A. Itkin Trust
Maria Markowitz	Mark C. Landry
Marian Otis Chandler Trust No. 2	Mark Domas
Marie Macchiaroli, as Trustee of the Carmine Macchiaroli Living Trust U/A 07/01/88	Mark Hianik
Marilyn M. Matheson, as Trustee of the Faulkner Family Trust UA DTD 8/29/1989	Mark I. Seiden
Marilyn N. Fetherolf, as Trustee of the Fetherolf Family Trust	Mark J. Metzner
Marilyn R. Diamond Trust dated 11-11-88	Mark R. Pattis, as Trustee of the Mark R. Pattis Revocable Trust
Marilyn Rapkin	Mark R. Pattis, as Trustee of the Next Chapter Holdings
Mario J. Gabelli	Mark R. Pattis
Marissa Rudman	
Marjorie B. David	

Revocable Trust Uad 07/30/04	Martha D. Donahue Martha Gross, as Trustee of the Martha Gross Living Trust U/A/D 04/14/1996
Mark S. Lies	Martha P. Pope
Mark Stranahan	Martha P. Pope, as Executrix for the Estate of Leavitt J. Pope
Mark W. Madigan	Mary Anne Vydra, as a Trustee of the Trust for the Benefit of Mary Anne Vydra U/A/D 03- 10-2006
Mark W. Madigan and Stephanie Madigan	Mary B. Schwab, as Trustee of the Schwab Trust A Charitable U/A DTD 05/23/1995
Market Street Securities	Mary E. Day
Marlowe G. Merkel, as Trustee of the Alfred W. Merkel Marlowe G. Merkel Trust UA 11 Sep 85	Mary F. Brown
Marni Horwitz Trust Dated January 22, 1998	Mary H. Cooper
Marni Norris Lloyd Horwitz, as Trustee of the Marni Horwitz Trust Dated January 22, 1998	Mary Huntley, as Trustee of the Jessie Ball Dupont Fund
Marshall & Ilsley Trust Co.	Mary J. Bloom, as a Trustee of the Mary J Bloom Trust 11-21-95
Marshfield Clinic Master Trust	Mary Jane F. Moeller Trust U/A/D 8/7/2006
Martha A. Bell, as Trustee of Declaration of Bell Family Trust UA 12/1/86	Mary Jane F. Moeller, as Trustee of the Mary Jane F. Moeller Trust U/A/D 8/7/2006
Martha Bell, as Trustee of Declaration of Bell Family Trust Meadowbrook Equity Fund UA 12/1/86	

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Mary Jo Osterman, Individually and as Trustee of the Trust by Mary Jo Osterman U/A/D 04/04/91 Fbo Mary Jo Osterman	U/A DTD October 19, 1999 Mary Rothermel Mary Shaw Mccutcheon, as Trustee of the Mary Shaw Mccutcheon Trust U/A DTD 10/26/1987
Mary K. Lawler, as A Trustee of the Trust by Mary K. Lawler U/A DTD 06/18/1996	Mary Sue Gatzert Trust dated 9-29-95
Mary K. Monopoli Mary Kathleen McNulty, Individually and as Personal Representative of the Estate of Wayne F. McNulty	Mary Therese Murphy Masonic Family Health Foundation Massmutual Premier Enhanced Index Value Fund Massmutual Premier Funds
Mary L. Tunney Junior Trust, Current Trustee	Massmutual Premier Main Street Small/Mid Cap Fund
Mary Lloyd W B Lloyd III TTEE, Mary Maverick Lloyd Trust U/A 5/23/89 Fbo Mary Maverick Lloyd	Massmutual Premier Small Company Opportunities Fund
Mary Lou Ricotta	Massmutual Select Diversified Value Fund
Mary Neville Hankey	Massmutual Select Funds
Mary Phillips, as Trustee of the Jessie Ball Dupont Fund	Massmutual Select Indexed Equity Fund
Mary R. Mcdermott	Master Investment Portfolio (S&P 500 Stock Master Portfolio)
Mary Rosenthal, as Trustee of the Mary Owen Rosenthal Trust	Mathodam Ranjit

Matthew Bender IV	Mcconnell Foundation
Matthew Halbower	Mcgill University
Matthew V. Lewis, as Trustee of the Anne Mccutcheon Lewis Trust U/A DTD 10/26/1987	Pensioner Fund Medisend International
Matthews, Rondra and Keith Matthews Jtwros	Mel L. Shultz and Beth Jane Shultz, Husband and Wife
Max S. Bell	Melissa Monson
Max S. Bell and Jean F. Bell	Mellon Bank N.A. Employee Benefit Plan
Maxim foreign Equity Portfolio	Mellon Bank N.A. Employees Benefit Collective Investment Plan
Maxim Series Fund Inc.	Mellon Capital Management Corporation
Maxim T. Rowe Price Equity/Income Portfolio	Mer Rouge Properties LLC - Series A
Maxine Marshall, as Trustee of J & M Marshall T/U/D	Mercer Funds f/k/a Mgi Funds (Mgi Us Small/Mid Cap Value Equity Fund)
Maxine Marshall, as Trustee of M. B. Marshall T/U/D	Merrill Lynch Financial Markets, Inc.
May C. Goodan Trust No. 2	Merrill Lynch Pierce Fenner & Smith
Mb Financial Bank, National association	Merrill Lynch Trust Company, a Division of Bank of America, N.A.
M-B Paul Harvey Aurandt Trust UA 11/13/90	Merrill Lynch Trust Company, Trustee of Mine Scribante Crut Sanibel Captiva
Mc Investment Partners LLC	

<p>Merrill Lynch, In Its Individual and Custodial Capacities</p> <p>Merrill Lynch, Pierce, Fenner & Smith Inc.</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated as Successor to Banc of America Securities LLC</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, Custodian, and Claudia F Gasparini, Beneficiary, Claudia F Gasparini Ira</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, Custodian, and David H. Jacoby, Beneficiary, David H. Jacoby Ira</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, Custodian, and Joseph Leonard, Beneficiary, Joseph Leonard Ira</p>	<p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, Custodian, and Milan E. Chilla, Beneficiary, Milan E. Chilla Ira</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, Custodian, and Richard Moy, Beneficiary, Richard Moy Ira</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, Custodian, and Robert D. Sparr, Beneficiary, Robert D. Sparr Ira</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, in its Individual and Custodial Capacities</p> <p>Merrill Lynch, Pierce, Fenner & Smith Incorporated, in its Individual and Custodial Capacities [Incl. Merrill Lynch Professional Clearing Corp.]</p> <p>Merrill Lynch, Pierce, Fenner & Smith</p>
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<p>Incorporated, Trustee, and Stephen E Quast, Beneficiary, Stephen E Quast Ira 12/31/1995 Metropolitan Life Insurance Co. Metropolitan Stock Index Fund Metzner Family Foundation 1M-579 Miami Corporation Micah Fierstein Micah Fierstein Gen Par Michael A. Silver Michael Argirion, as Trustee of the Michael Argirion Revocable Trust U/A DTD 11/13/96 Michael C. Donahue Michael D. Schwaiger, as Custodian of the Batl Pn-Ntrs S&P Michael E. Bee, as Trustee of the Michael E. Bee Trust Uad 10/20/2003 Michael Eigner Michael G. Murphy Michael G. Murphy and Mary Therese Murphy Michael Graff, as Trustee of the Graff Value & Fittings</p>	<p>Company Employees Profit Sharing Plan & Trust 2 Uad 6/30/85 Michael Hendrickson as Administrator of the Automotive Machinists Pension Trust Fund Michael J. Liccar & Co. Michael J. Palumbo, as Trustee of the Michael J. Palumbo Revocable Li Trust U/A DTD 11/29/1999 Michael K. Reilly, as Trustee of the Michael K. Reilly Trust U/A DTD 09/25/1995 Michael Keiser Michael Keiser, as Trustee of the Michael & Rosalind Keiser Charitable Trust U/A DTD 12/30/90 Michael Liccar Michael Loeb Michael Plonski Michael R. Quinlan, as A Trustee of the Trust by Michael R. Quinlan U/A DTD 09/04/1979 Michael S Rosenblum Michael W. Dunaway, as a Trustee of the Fbo</p>
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Dunaway Family Trust U/A/D 07-05-1991	ML Index 500 V.I. Fund ML Large Capitalization
Mid Atlantic Capital Corp.	IN MLC Investments Ltd.
Mid-Atlantic Regional Council of Carpenters Pension Plan	MML Blend Fund MML Equity Income Fund
Mike Eugene Abernethy	MML Series Investment Fund
Milena Christine Jurzykowski Claude D Pepin, Mark Finser Ttee, M Christine Jurzykowski Rev TR Fbo M Christine Jurzykowski	MML Series Investment Fund II MOC Chandler Trust No. 1 Monica K. Hinman Monserrate Ramirez
Miles D. White	Montpelier Reinsurance Ltd
Miliken Stock Fund (7R)	Monumental Life Insurance Company
Mill Shares Holdings (Bermuda) Ltd.	Monumental Life Insurance Company f/k/a Peoples Benefit Life Insurance Company
Millenco LLC	Monumental Life Insurance Company
Milton Partners LLC	f/k/a Peoples Benefit Life Insurance Company
Minnesota Life Insurance Company	Monumental Life Insurance Company, as Owner of Teamsters Separate Account
Minnesota State Board of Investment	Morgan Stanley & Co. International Plc f/k/a Morgan Stanley & Co. International Limited
Miriam A. Pawel	Morgan Stanley & Co. LLC f/k/a Morgan
Miriam Novick, as Trustee of the Nathan H. Perlman Trust B DTD 12/17/68	
Miriam Susan Zach	
Mitchell Wolfson, Sr. Foundation	
ML Equity Index Trust	

Stanley & Co. Inc., In Its Individual and Custodial Capacities	Mtb Mid Cap Stock Fund
Morgan Stanley & Co., Inc. [LLC] as Custodian for Caxton associates LLC [n/k/a Caxton associates, LP]	Mubashir, Bashar A, Individually and as Beneficiary, Bashar A Mubashir Ira Rollover
Morgan Stanley & Co., Inc. [LLC] as Custodian for Tribeca Investments LLC	Multi-Strategy Greenock Master Fund Ltd.
Morgan Stanley d/b/a Morgan Stanley Prime Brokerage, In Its Custodial Capacity	Muriel Hyman
Morgan Stanley Equally-Weighted S&P 500 Fund f/k/a Morgan Stanley Value Added Market Series	Museum of Fine Arts
Morgan Stanley S&P 500 Index Fund	Mutual of America Investment Corp.
Morgan Stanley Select Dimensions Investment Series	Myra Shulkes, as Trustee of the Howard Shulkes Residuary Credit Trust U/A DTD 09/20/1991
Morgan Stanley Smith Barney LLC	Myrna Ramirez
Morgan, Keegan & Company, Inc.	Myrna Ramirez and Monserrate Ramirez Jtwros
Mount Ararat Cemetery, Inc.	Myron L. Hendrix
Mr Violet and Mrs Leslie Payne Jtwros	N. P. Gorny
	Nancy Crossman
	Nancy D. Ramage
	Nancy E. Kerr
	Nancy Fay Johnson
	Nancy Feigenbaum
	Nancy G. Lezette Estate
	Nancy Kallenberger
	Nancy L. Mac Donald, as Trustee of the William D. Mac Donald &

Nancy L. Mac Donald Trust UA 7 21	National Financial Services LLC/Fidelity Management Trust Co Ira Fbo Stephen R Miller
Nancy R. Spiegel Rev Trust Uad 10/14/89	National Financial Services LLC/Fidelity Management Trust Company, Custodian, and Marlene F Slade, Beneficiary, Marlene F Slade Rollover Ira
Nancy Trohan Dollar Nanette Rosenberg, as Trustee of the Rappaport Family Trust U/A DTD 06/04/1992	National Geographic Society
Nanette Rosenberg, as Trustee of the Trust U/A DTD 02/23/1981 by Michael Rosenberg	National Railroad Investment Trust
Nanette Rosenberg, as Trustee of the Trust U/A DTD 11/02/1977 by Robert Rosenberg	National Railroad Retirement Investment Trust
National asbestos Workers Pension Fund	National Roofing Industry Pension Fund
National Automatic Sprinkler Industry Pension Fund	Nationwide Funds Nationwide S&P 500 Index Fund
National Financial Services LLC/Fidelity Management Trust Co Ira Fbo Marilyn R Miller	Natixis Financial Products LLC f/k/a Natixis Financial Products Inc.
National Financial Services LLC/Fidelity Management Trust Co Ira Fbo Raymond E Janczak	Natixis Funds Trust Ii Natixis Securities Americas LLC (Successor-In-Interest to Natixis Bleichroeder LLC)

Neal Creighton	New York City
Neca-Ibew Pension Trust Fund	Firefighters' Variable Supplements Fund
Neckar Holdings LLC	New York City Police officers' Variable Supplements Fund
Nedra Plonski	New York City Police Pension Fund
Neil J. Rowe	New York Life Insurance Co.
Neil J. Rowe and Carol S. Rowe	New York State Insurance Fund
Neisser Investment LP	New York State Teachers' Retirement System
Neuberger Berman, Inc.	Newedge USA LLC
New Americans LLC	Newedge USA LLC Equity Clearing Division
New Eagle Holdings LLC	Next Chapter Holdings LP
New England Health Care Employees Pension Fund	Nicholas G. Chantiles
New Jersey Health Foundation	Nicholas H. Werthman
New Jersey Transit - Mta Allocation	Nicholas Hallack
New York City Deferred Compensation Plan	Ninth Street Partners Ltd.
New York City District Council of Carpenters Pension Fund	Nomura International Trust Co.
New York City District Council of Carpenters Welfare Fund	Nomura Securities International, Inc.
New York City Employees Retirement System	Nondima Chicago Comm Foundation - Fitzsimons
New York City Fire Pension Fund	Nora E. Morgenstern

Norma B. Webb	Northern Trust Global Investment
Normandy Hill Master Fund LP	Northern Trust
North Shore Bank of Commerce	Investments, Inc. (f/k/a Northern Trust Investments, N.A.)
Northern assurance Co. of America	Northern Trust
Northern Funds	Investments, Inc. f/k/a Northern Trust
Northern Funds – Enhanced Large Cap Fund	Investments, N.A.
Northern Funds – Large Cap Value Fund	Northern Trust Large Cap Value Fund
Northern Illinois Benefit Funds	Northern Trust Value Investors, a Division of Northern Trust
Northern Institutional Fund Equity Index Portfolio	Investments, Inc. (f/k/a Northern Trust Investments, N.A.)
Northern Institutional Funds	Northern Trust Value Investors, a Division of Northern Trust
Northern Multi-Manager Mid Cap Fund	Investments, Inc. f/k/a Northern Trust
Northern States Power Company–Minnesota	Investments, N.A.
Northern Stock Index Fund	Northshore University Health System, as Owner of the
Northern Trust Cc Afgt	Northshore University Healthsystem Second Century Fund
Northern Trust Cc Ebt	Northern Trust
Northern Trust Company	Northshore University Healthsystem Second Century Fund
Northern Trust Enhanced Large Cap Fund	

Northwestern Mutual Life Insurance Company	NTCC Advisors Funds for Employee Benefit Trust
Northwestern Mutual Series Fund Inc. Equity Income Portfolio	NTCC Channing Mid Cap Value Afebt NTCC Channing Mid Cap Value Sudan Free Fund Afebt
Northwestern Mutual Series Fund Inc. Index 500 Portfolio	NTCC Lsv Mid Cap Value Fund Afgt
Northwestern Mutual Series Fund Inc. Small Cap Value Portfolio	NTGI-QM Collective Daily Quant Index Plus S&P500 Equity Fund – Lending
Northwestern Mutual Series Fund, Inc.	NTGI-QM Collective Daily S&P500 Citigroup/Value Equity Index, Fund – Lending
Nsp-Minnesota Prairie I Retail Qualified Trust	NTGI-QM Collective Daily S&P500 Special Purpose Equity Index Fund – Lending
Nsp-Minnesota Prairie II Retail Qualified Trust	NTGI-QM Collective Daily Us Marketcap Equity Special Purpose Index Fund – Lending
Nsp-Monticello Minnesota Retail Qualified Trust	NTGI-QM Common Daily Labor Select Russell 3000 Equity Index Fund – Lending
NT Collective Russell 1000 Value Index Fund – Lending	NTGI-QM Common Daily Russell 1000 Value Equity Index Fund – Lending
NT Collective S&P 500 Index Fund Lending	
NT Collective S&P 500 Index Fund Non Lending	
NT Collective US Marketcap Equity Index Fund – Lending	

NTGI-QM Common Daily S&P 500 Equity Index Fund – Lending	Nyc District Council Carpenters Welfare Oakmont Management Oddo & Cie as Successor to Banque D'Orsay Ofelia R Pecaro, as Trustee of the Pecaro Family Trust DTD 4/12/02
NTGI-QM Common Daily S&P500 Equity Index Fund – Non Lending	OFI Private Investments, Inc. OFIPI Main Street Select Strategy
NTGI-QM Common Daily Us Marketcap Equity Index Fund – Lending	Ohio Carpenters' Pension Fund
NTGI-QM Labor Select Collective Daily Russell 3000 Equity Index Fund – Lending	Ohio National Financial Services
Nuclear Electric Insurance Limited	Ohio National Fund, Inc. Ohio National Strategic Value Portfolio
Nuveen Equity Index Fund	Ohio Natl Fund, Inc. Strategic Value Portfolio
Nuveen Equity Index Fund (f/k/a First American Equity Index Fund)	Ohio Public Employees Retirement System
Nuveen Equity Index Fund, Inc.	Ohlson Enterprises Olifant Fund Ltd.
Nuveen Investment Funds, Inc.	Oliver Mccutcheon Lewis, as Trustee of the Anne Mccutcheon Lewis Trust U/A DTD 10/26/1987
Nuveen Investments LLC	Olivia Jean Williams, Individually and as
Nvit S&P 500 Index Fund	
NYC District Council Carpenters Pension	

Beneficiary of Olivia Jean Williams Ira Rollover and Olivia Jean Williams Ira Rollover DTD 12/19/97	Main Street Opportunity Fund)
Oma & Opa LLC	Oppenheimer Main Street Small- & Mid- Cap Fund (f/k/a
Omar F. Johnson Jr.	Oppenheimer Main Street Small Cap Fund)
Omers Pension Fund	Oppenheimer Variable Account Funds (d/b/a
Omimex Investments LLC	Oppenheimer Main Street Small- & Mid- Cap Fund/Va, f/k/a
Onebeacon America Insurance Co.	Oppenheimer Main Street Small Cap Fund/Va)
Onebeacon Insurance Co.	Oppenheimerfunds, Inc. Opportunity Partners LP
Onebeacon Insurance Company, as Administrator of	Option Opportunities Company
Onebeacon Insurance Pension Plan	Optionsxpress, Inc.
Onebeacon Insurance Pension Plan	Opus Trading Fund LLC
Onebeacon Insurance Savings Plan	O'reilly, William S and Daniel Joseph O'Reilly Md, Trustees
Onebeacon Insurance Savings Plan – Equity 401k	O'reilly, William S, Trustee, William S O'reilly Trust U/A 6/23/04 Fbo William S O'Reilly
Onebeacon Insurance Savings Plan – Fully Managed	Otto J. Koch Trust U/A DTD Nov 18, 1992
Ontario Pension Board	
Oppenheimer & Co., Inc.	
Oppenheimer Main Street Select Fund (f/k/a Oppenheimer	

P. Chamberlain, as Trustee of the Elizabeth G. Chamberlain Trust U/A DTD 04/25/1979	Fendley Trust U/A DTD 11/27/1995
P. S. Hayes Pacific Select Pacific Select Fund Pactiv Corporation Palisades Partners LP Pam Lindberg Pandora Select Partners LP	Patricia J. Shand Patricia K. Stinehart, as Trustee of Stinehart Living Trust Ua DTD 05/19/89
Paper Products, Miscellaneous Chauffeurs, Warehousemen, Helpers, Messengers, Production and office Workers Local 27 Pension Fund	Patricia Kaszton, as Trustee of the Kaszton Family Trust Uad 10/23/97
Paris Trading Patience Humphrey Patricia Crowe Warren Residuary Trust No. 2 Uad 06/26/35	Patricia L. Pierce Patricia L. Pierce, as Trustee of the O.C. Smith & P.L. Pierce Joint Revocable Living Trust DTD 7/18/2005
Patricia Goldenberg Patricia H. Yeomans, as Trustee of the Yeomans Family Trust U/A 2/22/92	Patricia Stern Ross, as Trustee of the Eleanor Jackson Stern Trust Dated 01/06/1971
Patricia I. Walsh Patricia J. Fendley, as A Trustee of the John P.	Patricia Stern Ross, as Trustee of the Russell T. Stern Trust B Patrick J. Mcglinn Paul C. Konrad Paul C. Konrad and Kirsten Konrad Paul D. Goddard Paul Harvey Aurandt, as Trustee of the M-B Paul Harvey Aurandt Trust Ua 11/13/90

Paul M. Mahoney, as a Trustee of the Iris B. Mahoney Revocable Trust U/A/D 04/10/98	PCRG, Inc. Pecaro, Timothy S. and Susan S. Pecaro Jtwros Pennsylvania General Insurance Co.
Paul M. Mahoney, as Trustee of the Trust for the Benefit of Paul P. Mahoney DTD 12/28/1978	Pennsylvania Municipal Retirement System Pension Administration Committee of McGill University Pensioner Fund, as
Paul P. Mahoney Paul Pai Paul Pai & Helena Pai Joint Tenant	Administrator of the Mcgill University Pensioner Fund
Paul R. Gerken Paul Theodore Hammond, as Trustee of the Hammond Family Trust U/A/D 02/11/88	Pension Benefit Guaranty Corporation, as Trustee of the Hartmarx Retirement Income Plan
Paul W. Dillon Grandchildren's Trust Dated 12/6/41 Fbo Paul D. Goddard	Pension Commingle Fund Pension Fund association for Local Government officials
Paula Miller Trienens Trust Dated 9-18-91	Pension Fund of the Christian Church (Disciples of Christ), Inc.
Paula Solon Pavers and Road Builders District Council Pension Fund, by and Through Its Board of Trustees	Pension Reserves Investment Management Board
PCRG Fund I LLC PCRG Fund II LLC PCRG Fund III LLC	Pension Reserves Investment Management Board, as

Trustee of Pension Reserves Investment Trust Fund	[Pequot Diversified Master Fund, Ltd.]
Pension Reserves Investment Trust Fund	Pequot Credit Opportunities Fund, L.P.
Pension Trust Fund Local Union #27	Perceval Investment Partners-P LP
Penson Financial Services Centurion 115179192	Perry Corp.
Penson Financial Services Centurion 115180082	Perry Partners L.P.
Penson Financial Services Crawford	Pershing LLC
Penson Financial Services Mushin Tra	Peter A. Nielsen
Penson Financial Services Opus Bbx	Peter A. Young
Penson Financial Services Sano Inves	Peter G. Lagen
Penson Financial Services Spectrum T	Peter Perugini
Penson Financial Services Track Data	Peter R. Brinckerhoff, as Trustee of the Pandion Ii Charitable Remainder Uni Trust U/A DTD 12-22-2005
Penson Financial Services, Inc.	Peter R. Marino
Pentwater Credit Partners Fund Ltd.	Peter Rizzo
Pepperdine University	Peter Rizzo and Kimberly Rizzo
Pequot Capital Management, Inc.	Peter W. King
	Peter W. King and Jane Doe King, Husband and Wife
	PFPC, Inc.
	Pg&E Postretirement Medical Plan Trust
	Pg&E Qual Cpuc Ndt Partnership
	Philip B Doherty, as A Trustee of the Trust by

Philip B. Doherty U/A DTD 04/28/2000	Pipefitters Local 274 Pension
Philip B. Chase Revocable Trust dated 07/28/94	Pleasant T. Rowland Revocable Trust
Philip Chandler Residuary Trust No. 2 Uad 06/26/35	Pleiades Investment Partners G LP
Philip Graff, as Trustee of the Graff Valve & Fittings Company Employees Profit Sharing Plan & Trust 2 Uad 6/30/85	Plumbers & Pipefitters National Pension Fund
Philip H. Slesur	Plumbers and Pipefitters Local 501 (f/k/a Plumbers and Pipefitters Local 507)
Philip H. Slesur and David P. Slesur	Plumbers Local Union No 519 Pension Fund
Philip S. Babcock and Jane Doe Babcock, a Washington Marital Community	Pnc Bank, National Association [Incl Lancaster & Sterling]
Philip V Mann	Pnc Bank, National Association [the Pnc Financial Services Group, Inc.], as Successor To National City Bank
Phoebe P. Bender	Pnc Bank, National Association, as Successor To Mercantile Safe Deposit & Trust Co.
Phonovisual Products Inc.	Policemen's Annuity and Benefit Fund of Chicago
Pinnacle Health System Board Designated	Polly H. Howells
Pinnacle Health System Pension Plan	Pond View Credit (Master) LP
Pinnacle Health System, as Administrator of the Pinnacle Health System Pension Plan	

Portfolio 1 offshore Master LP Lsv	Prospector Partners LLC
Posen Family Limited Partnership	Prospector Summit Fund LP
Potter, Adam F. [W.]	Prudential Bache
Powershares Buyback Achievers Portfolio	Securities, LLC [Jefferies Bache
Powershares Exchange- Traded Fund Trust	Securities, LLC f/k/a Prudential Bache
Powershares Ftse Rafi US 1000 Portfolio	Securities, LLC]
Priac Funds	Prudential Insurance Co. of America (Pdi)
Princeton Theological Seminary	Prudential Insurance Co. of America (Pmfim)
Principal Variable Contracts Funds, Inc.	[Pica - Prudential Insurance Company
Prism Partners I [L.P.]	Separate Account]
Prism Partners II offshore Fund	Prudential Insurance Company of America
Prism Partners III Leveraged LP	Prudential Investment Management Inc.
Prism Partners IV Leveraged offshore Fund	Prudential Investment Portfolio 3 - Prudential Strategic Value Fund
Pro Shares Ultra S&P 500	Prudential Investment Portfolios 8 -
Producer-Writers Guild of America Pension Plan	Prudential Stock Index Fund
Progress Energy Service Co.	Prudential Investments, Inc.
Progressive Casualty Insurance Company	Prudential Non- Qualified Benefits Funding (Toli)

Prudential Retirement Insurance and Annuity Co	Quinn Martin Dolan
Prudential Retirement SA LV5	Quixote Capital Management
Public School Teachers' Pension and Retirement Fund of Chicago a/k/a Chicago Teachers' Pension Fund	Quixote Partners LLC
Putnam Fiduciary Trust Company, as Trustee of the Local 134 Pension Plan No. 5 S&P 500 Fund	Qvt Fund LP
Putnam Fiduciary Trust Company, as Trustee of the Putnam S&P 500 Index Fund	R. J. Brookes
Putnam Lovell NBF Securities, Inc.	R. Mark Mallory
Putnam S&P 500 Index Fund	R. Mark Mallory, as A Trustee of the Trust by R. Mark Mallory U/A DTD 12/30/1999
Q4 Partners LP	R.E. Ginna Nuclear Power Plant LLC
Qcm Absolute Return Fund	R.E. Ginna Nuclear Power Plant LLC Master Decommissioning Trust
Qualified Cpuc Decom Master Trust	R.E. Ginna Qualified Decommissioning Trust
Quantitative Master Series LLC f/k/a Quantitative Master Series Trust (Master S&P 500 Index Series)	R.F. Foundation
	R.K. Mellon Common Trust Fund #3
	Rabin Worldwide, Inc.
	Radharani Gupta
	Rae F Patterson Self Trust
	Rae F. Patterson
	Rae F. Patterson, as Trustee of the Rae F. Patterson Self Trust
	Rafael A. Ordonez, as Trustee of the Rafael

<p>Ordenez Revocable Living Trust Dated June 9, 2009 Rafael Ordenez Revocable Living Trust Dated June 9, 2009 Ramius Securities LLC Rawson, Julia Anne Smith and William Collins Smith, Trustees, Albert & Julia Smith Charitable Remainder Unitrust II Raymond Gene Novelly Raymond John Frank, as A Trustee of the Raymond John Frank Revocable Trust Ua 03/07/00 Raytheon Master Pension Trust Large Cap/Long/Short Rb&W/Gamco Rbc Capital Markets, LLC d/b/a Rbc Wealth Management F/K/A Ferris Baker Watts, Inc. RBC Capital Markets, LLC f/k/a RBC Capital Markets Corporation RBC Global Asset Management Inc.</p>	<p>RBC O'Shaughnessy Canadian Equity Fund RBC O'Shaughnessy U.S. Value Fund RBS Holdings, N.V. formerly Known as ABN Amro Holding N.V. (ABN Amro Equities) RBS Securities, Inc. Re Ginna Qualified Decommissioning Trust Reckford, Samuel P Redbourn Partners Ltd. Redwood Master Fund Ltd Reed Elsevier Inc. Reed Elsevier Inc., as Administrator of Reed Elsevier US Retirement Plan Reed Elsevier US Retirement Plan Reform Pension Board Trust, by and Through Its Board of Trustees Reinhold Weege, as Trustee of the Weege Family Trust U/A 6/21/89 Rempel Brothers Rena Shapiro, as Trustee of the Bernard</p>
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<p>and Rena Shapiro Intervivos Trust A/C #1 Dated 10/15/87 Renaissance Technologies LLC Renee Gilbert Renee H. Miller, as Trustee of the Renee H. Miller Living Trust Research Affiliates Fundamental Index LP Retirement Board of the San Francisco Employees' Retirement System, as Administrator of the San Francisco Employees' Retirement System Rex L. Sturm Rex L. Sturm Trust Rex L. Sturm, as Trustee of the Rex L. Sturm Trust Rex Logan Sturm, Jr Rhen, Alan R., Individually and as Beneficiary of Alan R. Rhen Ira R/O U/A DTD 8/13/98 Rhumblin Advisers Rhumblin S.A. Free S&P Index</p>	<p>Richard A. Kucera, Individually and as Trustee of the Trust by Richard A. Kucera & Diane A. Kucera U/A/D 03-23-07 Fbo Richard & Diane Kucera Richard askin, as Trustee of the askin Family Trust U/A DTD 09/27/1990 Richard C. Freedman Richard C. Freedman and Lynda M. Freedman Jtwros Richard Cooley Richard Cooley and Bernadette Cooley Richard D. Dudley Richard Duffield Tee Natalie McCormick Miller Living TR U/W 12/27/83 Fbo Natalie McCormick Miller Richard Engberg and Dorothy Engberg, Husband and Wife Richard Haigler, as Trustee of the Richard Haigler & Despina Haigler Living Trust U/A 11/04/91 Richard Kallenberger</p>
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Richard Kallenberger and Nancy Kallenberger, a Washington Marital Community	Rief Trading LLC c/o Renaissance Technologies LLC
Richard M. Ader	Rip Investments LP
Richard M. Basoco	Risk Facil 99: Close/Risk
Richard M. Vander Meer	Rita A. Boehm
Richard Morabito	Riversource Absolute Return Fund LLC
Richard O. Kearns Revocable Trust	Robbins & associates
Richard O. Kearns, as Trustee of the Richard O. Kearns Revocable Trust	Robeco Institutional asset Management Bv
Richard Paniagua	Robeco Investment Management, Inc.
Richard Rott	Robert & Mildred Harris Trust
Richard T. Yu	Robert A Strutzel Ttee
Richard W. Mcintosh	Robert A Strutzel Declr Trust U/A 9/28/04
Richard W. Mcintosh and Jenifer B. Mcintosh	Robert A. and Jamie A. Simins Jtwros
Richmond Capital Master Fund Ltd	Robert A. Fox
Richmond Enhanced Capital LP	Robert A. Habermann, as Trustee of the Robert A. Habermann Revocable Trust U/A DTD 4/20/99
Ridge Pittman, as Trustee of the Pittman Trust	Robert A. Simins
Rief Rmp LLC	Robert B. Dold
Rief Rmp LLC c/o Renaissance Technologies LLC	Robert B. Dold and Eileen C. Norris
Rief Trading LLC	Robert B. Greene Jr., as A Trustee of the Robert

B. Greene Jr. Trust U/A DTD 11/06/86	H. Farrington Marital Trust Uad 09/05/05
Robert C. Huber	Robert J Brooks, as
Robert C. Huber and Lorena P. Huber, a Washington Marital Community	Trustee of the R. J. Brooks Community Property Trust
Robert D. Bosau	Robert J Gunterberg
Robert D. Campbell, as Trustee of the Catherine A. Campbell Trust, dated 9/21/1995	Robert J. Brookes, as Trustee of the 3/10/87 Trust for the Benefit of R. J. Brookes & V. M. Brookes
Robert D. Nelson	Robert J. Kuhn
Robert Dishon Family Trust, and 1st Source Bank as Trustee	Declaration of Trust Dated 4-6-92
Robert E. Lablanc	Robert J. White, as
Robert Evans	Trustee of the Trust Fbo Robert Joseph White U/A/D 06/16/99
Robert F. Farrington, as Trustee of the Robert H. Farrington Marital Trust Uad 09/05/05	Robert Joseph White
Robert Farrington	Robert K Kraft
Robert Friedman, as Trustee of the Friedman Living Trust U/A 08/04/99	Robert L. Oakum
Robert H Huffman Iii	Robert L. Oakum and Susann Oakum
Tteerobert H Huffman Iiirev Trust U/A 3/12/90	Robert M Steiner
Robert H. Farrington, as Trustee of the Robert	Robert M. Berger
	Robert M. Treboux
	Robert Mosberg
	Robert Parrillo, as a Trustee of the Trust by Robert Parrillo U/A DTD 12/27/1990
	Robert Passaneau

Robert R. Blend, as Trustee of the Benefit of the Blend Decedent's Trust Uad 12/2/99	Roger D Elliott Roger Goodan Roger Goodan and Jane Doe Goodan, a Washington Marital Community
Robert R. Blend, as Trustee of the Blend Survivor's Trust Dated 12/02/99	Roger Goodan, as Trustee of Chandler Trust No. 1
Robert R. Cull, as Trustee of the Robert R. Cull Trust U/A 1/14/98	Roger Goodan, as Trustee of Chandler Trust No. 2
Robert R. McCormick Foundation	Roman Catholic Archbishop La
Robert Ramsey	Romano Brothers & Co.
Robert S. Morrison	Ronald C. Cey, Individually and as a Trustee of the Cey Living Trust 5/14/87
Robert S. Splithoff, as a Trustee of the Robert S. Splithoff Trust U/A/D 05-27-1992	Ronald E. Cann, as Trustee of the Ronald Cann Trust Uad 11-22- 04
Robert W Baird Co. Inc.	Rondra Matthews
Robert W. & Margaret A. Eder Rev Living Trust Ua DTD 05/02/03	Ronin Capital LLC
Robert W. Young	Rosalind Keiser, as Trustee of the Michael & Rosalind Keiser Charitable Trust U/A DTD 12/30/90
Robert Wesley Thornburgh	Rose Marie Taylor
Robertson Five, Inc.	Rose T. Bosau
Robin Lloyd	
Robyn L. Motley	
Rocca Limited Liability Co.	
Rodolfo V. Gil	

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Rosemary T. Cox Revocable Trust DTD 5/21/2004	Trust U/A DTD 02/10/1992
Rosemary T. Cox, as Trustee of the Cox Family Educational Trust dated 08/02/2004	Russell Investment Company Russell Investment Company Diversified Equity Fund
Rosemary T. Cox, as Trustee of the Rosemary T. Cox Revocable Trust DTD 5/21/2004	Russell Investment Group Russell Investments Russell T. Stern Jr., as Trustee of the Eleanor Jackson Stern Trust Dated 01/06/1971
Rosemary Wagner Ross N Reeves Iii June D Reeves Ttee, Ross & June Reeves Jt Liv TR U/A 11/30/09	Russell T. Stern Jr., as Trustee of the Russell T. Stern Trust B Russell T. Stern Trust B
Rothschild Investment Corporation Employee Profit Sharing Plan Designated Investment Account Fbo Robert M Steiner	Russell US Core – Equity Fund Ruth C. Von Platen Trust No. 2 Ruth M Tankersley Ttee
Royal Bank of Canada Royal Trust Corporation of Canada	Ruth M Tankersley Rev TR Amd 6/16/2000 U/A 10/6/92
Royal Trust Corporation of Canada c.o Royal Bank of Canada	Ruth Mccormick Tankersley, as Trustee of the 10/06/92 Ruth Mccormick Tankersley Revocable Trust
Ruanwil LLC Russell Equity I Fund	Ruth Wottge Ruthellyn Musil, as a Trustee of the Trust by
Russell F. Stephens Jr., as Trustee of the Russell F. Stephens Jr.	

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Ruthellyn Musil U/A DTD 07/27/2001	S. Joyce as Trustee of the Sara Joyce Trust U/A DTD 12/7/2005
RWB	SA Funds - Investment Trust
Ryan Enterprises Group LLC	SA Funds – Investment Trust
Ryan, Patrick G	SA U.S. Core Market Fund
Rydex Etf Trust (Rydex S&P 500 Pure Value Etf)	SA U.S. Value Fund
Rydex Etf Trust (Rydex S&P Equal Weight Consumer Discretionary Etf)	Sacramento County Employees Retirement System
Rydex Etf Trust (Rydex S&P Equal Weight Etf)	Safeco Life Insurance Co.
Rydex Investments	Safeco Life Insurance– Master Tr Pl
Rydex Series Funds	Salisbury Bank & Trust Co.
Rydex Series Funds Multi-Hedge Strategies Fund	Sally H. Contant, as Trustee of the Sally H. Contant Trust U/A DTD 10/13/1983
Rydex Series Funds S&P 500 Pure Value Fund	Salvation Army – Southern Territory
Rydex Variable S&P 500 Pure Value Fund	Salvation Army Central Territorial
Rydex Variable Trust	Samuel H. Frankel, as a Trustee of the Trust for the Benefit of Samuel H Frankel U/A/D 01/28/80
Rydex Variable Trust Multi-Hedge Strategies Fund	Samuel Moore, as Trustee of the Samuel
S&P 500 Equity Index Weighted Fund LP	
S. G. Harris Charity Trust Uad 6/13/45	
S. G. Harris Mar TR 6/17/65	

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S. Moore Trust U/A DTD 10/11/1988 San Francisco Employees' Retirement System	Sarah A. O'Brien, as Trustee of the Kevin D O'Brien Trust DTD 8- 18-03
Sandelman Partners Multi-Strategy Master Fund Ltd.	Sarah A. O'Brien, as Trustee of the Sarah A O'Brien Trust DTD 8- 18-03
Sander Morris Harris, Inc.	Sarah Doll Barder Sargeant E. Joys and Luanne G. Joys, as Trustees of the Sargeant & Luann Joys Living Trust
Sandra L. Young Sanford C. Bernstein & Co., Inc. as Custodian for Allianz Invest Kab Mbh	Sargeant E. Joys, as Trustee of the Sargeant & Luann Joys Living Trust
Sanford C. Bernstein & Co., Inc., in its Individual and Custodial Capacities	Sbc Master Pension Trust
Sanford C. Bernstein Fund, Inc.	Sbl Fund
Sanibel Captiva Trust Co.	Sbl Fund Series H Sbl Fund Series O
Sano Investments LLC	Sc Edison Nuclear Facilities
Santa Barbara County Employees Retirement System	Schaefer-Nevada Inc. School Employees Retirement System of Ohio
Santa Clara University	Schultze asset Management LLC
Sara A. Young Lightbourn	Schwab 1000 Index Fund
Sara Rooney	Schwab Capital Trust
Sarah A O'Brien Trust DTD 8-18-03	

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Schwab Fundamental Us Large Company Index Fund	Seasons Series Trust - Mid Cap Value Portfolio
Schwab Investments	Security Global
Schwab S&P 500 Index Fund	Investors–Rydex/Sgi
Schwab S&P 500 Index Fund (f/k/a Schwab Institutional Select S&P 500 Fund)	Sei Institutional Investment Trust – Large Cap Fund
Schwab Total Stock Market Index Fund	Sei Institutional Investment Trust – Large Cap Index Fund
Schwab Trust A Charitable U/A DTD 05/23/1995	Sei Institutional Investments Trust
Scotia Capital Inc.	Sei Institutional Managed Trust
Scott C. Smith	Sei Institutional Managed Trust – S&P 500 Index Fund
Scott C. Smith, as A Trustee of the Trust by Scott C. Smith U/A DTD 04/16/1983	Sei Institutional Managed Trust Large Cap Value Fund
Scott Haskins	Sei Institutional
Scott R. Cook	Managed Trust Tax-
Scott R. Klarquist	Managed Large Cap
Sdg&E Qualified Nuclear Decommissioning Trust	Fund Sei Investment Management
Seasons Series Trust - Focus Value Portfolio	Sei Investments Company
Seasons Series Trust - Large Cap Value Portfolio	Sei Investments Distribution Co., as Administrator of the Lsv Value Equity Fund

Sei Investments, as Administrator of the Sgif Large Cap Value Fund (R1v Enhanced)	Sharron R. Beard Sheet Metal Workers' Local 73 Pension Fund
Sei Siit	Sheldon Cooper, as Trustee of the Ins. Trust U/A 4/25/67
Sei Simt	Sheldon Gray
Seiu Local 36 Bolr Pension Fund	Shelley Weege, as Trustee of the Weege Family Trust U/A 6/21/89
Seiu Master Pension Trust	Sherbet & Co.
Selena A. Spurgeon, as Trustee of the Spurgeon Family Trust Uad 10/19/92	Sherrie M. Argirion, as Trustee of the Sherrie M. Argirion Revocable Trust U/A DTD 11/13/96
Sempra Energy Pension Mstr Trust	Sherry Broder, Individually and as Trustee of the Trust for the Benefit of Sherry P. Broder U/A DTD 1/1/94
Seth A. Thayer	Sherry P. Broder
Sg Americas Securities LLC	Sherwin A. Zuckerman
Sgif Large Cap Value Fund (R1v Enhanced)	Sherwin A. Zuckerman, as Trustee of the Edward E. Neisser Marital Trust
Shannon Morris	Sherwin Zuckerman
Sharon B. Christhilf	Shirley C. Beal Gegenheimer
Sharon Grossinger, as Trustee of the Irwin Grossinger Trust Dated 9/1/65	Shirley Dichek, as Trustee of the Dichek
Sharon H. Boultinghouse, as Trustee of the Sharon L. Boultinghouse Trust	
Sharon L. Boultinghouse Trust	
Sharon Rosenhause	

Family Trust Dated 12/11/74	Southwest Securities, Inc.
Shirley H. Dean, as Trustee of the Paul H. Dean Marital Trust A	Sowood Alpha Fund LP Spectrum Trading LLC
Shirley J Sperling and Susan J Martin Jt Ten	Spencer W. Beard Spindle Limited Partnership
Shirley J. Sperling	Spindle Limited
Si Trust Servicing	Partnership Balanced Advisory
Sicav State Street Banq, Paris	Spinningrod & Co.
Sig-Ss Cboe Joint Account	Sprint Corporation
Siragusa Enterprises LP	Spx Principal Strategy U.S. Shares Programs
Sisters of Saint Casimir of Chicago	Ss&C Technologies Holdings, Inc.
Sjc Capital LLC	Ss&C Technologies, Inc.
Smh Capital, Inc.	Ssb Exchange Fund
Smith, Scott C and Martha R Smith, Trustees, Smith and Reilly Family Foundation U/A 7/14/99	Ssbt Omnibus Account Ssb-Trust Custody Ssga Funds Ssga Russell 1000 Value SI Fund
Smoke Rise Foundation, Inc.	Ssga S&P 500 Equal Weight Ctf
Sophie Mcconnell	Ssga S&P 500 Flagship Fund
Sophie Mcconnell and Malcolm Mcconnell	Ssga S&P 500 Index Fund Ctf
South Shore Hospital Corporation	Ssga S&P 500 Tobacco Free Index Ctf
Southwest Carpenters Pension Trust	St. Francis Friends of the Poor, Inc.

St. Gregory College Preparatory School	Stark Global Opportunities Master Fund Ltd
Stacie Elizabeth ford, Acting Trustee and Beneficiary of the Alfred C. Glassell Jr. Children's Trust for Stacie Elizabeth ford	Stark Investments Stark Master Fund Ltd
Stacy Dean Yochum, as Trustee of the Paul H. Dean Marital Trust A	State Farm Fire & Casualty Insurance Company
Stanford Management Company	State Farm Insurance Companies Employee Retirement Trust
Stanley G. Harris Trust Uad 6/10/46	State Farm Life Insurance Company
Stanley J. Gradowski Jr. Revocable Trust Dated 3/26/97	State Farm Mutual Automobile Insurance Company
Stanley J. Gradowski Jr., as Trustee of the Stanley J. Gradowski Jr. Revocable Trust Dated 3/26/97	State Farm Variable Product Trust (Large Cap Equity Index Fund)
Stanley Weiss, as Trustee of the Erwin Shakin Delta Trust U/A 10/5/00	State of California – Mid Cap Value
Stanton R. Cook Charitable Remainder Trust	State of California, Department of Personnel Administration, Savings Plus Plan
Starbuck, Tisdale & associates	State Retirement & Pension System of Maryland–Srs
	State St. Bank & Trust Co.
	State Street Amr

State Street Bank & Trust	State Street Global Advisors (Japan) Co. Ltd.
State Street Bank & Trust Co. / Ibt–Account # 2	State Street Global Advisors Fund
State Street Bank & Trust Co., as Owner of Ibt–Account # 2	State Street Global Advisors World Fund
State Street Bank & Trust Co., as Successor oo Investors Bank Trust Company	State Street Global Advisors, Inc.
State Street Bank & Trust Co., as Successor oo Investors Bank Trust Company / Institutional Custody	State Street Global Advisors, Inc. Boston State Street Trust and Banking Co. Ltd.
State Street Bank & Trust Company	State Universities Retirement System
State Street Bank & Trust Company, as Trustee for First Data Incentive Savings Plan Fbo John G. Kologi	Steamfitters Local 420 Stephanie B. Flynn, as Trustee of the Stephanie B Flynn Trust U/A DTD 11/14/62
State Street Bank and Trust Company	Stephanie B. Flynn, as Trustee of the William J. Byrnes Trust U/A DTD 11/14/62
State Street Bank Luxembourg, S.A.	Stephanie Cahn Stephanie Madigan Stephanie Murray, as Trustee of the Stephanie Murray Living Trust
State Street Equity 500 Index Portfolio	Stephen Axelson Stephen R. Manheimer Steve H. Kagan
State Street Global Advisors	

Steven D. Carver	Strategic Funds, Inc.
Steven David Levitt and Jeannette Levitt	Strategic Opportunity Bmo Nesbitt Burns
Steven Rapkin	C/O Adaly Investment Management Co.
Steven U. Lee	Strohm, Bruce Carlton, Trustee, Bruce Strohm
Steven Y. Goldberg	Rev Trust U/A 05/12/93 Fbo Bruce Strohm
Stevens Capital Management LP	Strongbow Fund Ltd.
Steward Funds, Inc.	Sumitomo Mitsui Trust Bank, Limited (F/K/A Sumitomo Trust & Banking Co. Ltd.), as Trustee of Pension Commingle Fund
Stichting Pensioenfond Abp	Summit Mutual Funds
Stichting Pensioenfond Campina	Sun Creative Investments LP
Stichting Pensioenfond Hoogovens	Sunamerica asset Mgmt Corp. (Variable Ann Life Ins Co) [Sunamerica Series, Inc. - Sunamerica Strategic Value Portfolio F/K/A Focused Value Portfolio]
Stichting Pensioenfond Medische Specialisten	Sunamerica Series Trust - Equity Opportunities Portfolio
Stichting Pensioenfond Oce	
Stichting Pensioenfond Van De Abn Amro N.V.	
Stichting Pensioenfond Zorg En Welzijn	
Stichting Shell Pensioenfond	
Stifel, Nicolaus & Company, Incorporated	
Stinehart Living Trust Ua DTD 05/19/89	
Stock Index Portfolio, a Series of the Prudential Series Fund, Inc.	

Susan Babcock, as Trustee of Chandler Trust No. 1	Sybil Jinx Robinson, as Trustee U/A DTD 07/03/07 of the Sybil Jinx Robinson Separate Property Trust
Susan Babcock, as Trustee of Chandler Trust No. 2	
Susan F. Frederick, Acting Trustee of the Raymond & Anna Schroer Trust U/A DTD 09/28/2006	Sylvia Gates Schuler, as Trustee Utd 01/18/88 of the Schuler Trust
Susan H. Shane, Individually and as Trustee U/A DTD 08/09/1991 of the Trust for the Benefit of Susan H. Shane	Symetra Financial Corporation Symetra Life Insurance Co. (f/k/a Safeco Life Insurance Company)
Susan J. Cellmer	Synergy Capital Management LLC
Susan J. Martin	Systeia Capital
Susan K. Cunningham	Management
Susan M. Kennedy	Systeia Capital Management C/O
Susan S. Pecaro	Amundi Investments Advisors USA, Inc.
Susann Oakum	T Rowe Price Trust Co, Trptc Ttee Intersil Equity Inc Fund
Susquehanna Capital Group	T. Rowe Price associates (Spinningrod & Co)
Susquehanna Investment Group	T. Rowe Price associates, Inc.
Suzanne Grossinger Gould	T. Rowe Price associates, Inc. (Cheetah & Co.)
Swaps, Sbi	T. Rowe Price associates, Inc. (Foulard & Co.)
Swiss American Securities, Inc.	
Swiss Re Financial Products Corp.	

T. Rowe Price associates, Inc. (Sherbet & Co.)	T. Rowe Price Retirement Plan
T. Rowe Price associates, Inc. (Taskforce & Co.)	Services, Inc.
T. Rowe Price Balanced Fund - Large Cap Core Fund, Inc.	T. Rowe Price Structured Research Common Trust Fund
T. Rowe Price Balanced Fund, Inc.	T. Rowe Price Total Equity Market Index Fund
T. Rowe Price Equity Income Fund	T. Rowe Price Trust Co.
T. Rowe Price Equity Income Trust	T. Rowe Price Trust Company
T. Rowe Price Equity Income Trust C/O T. Rowe Price associates, Inc.	T. Rowe Price, as Owner of Advanced Series Large Cap
T. Rowe Price Equity Index 500 Fund	T. Rowe Price, as Owner of Mml Equity Income Fund
T. Rowe Price Equity Index Trust	T. Stanton Armour Trust Dated 2/10/66
T. Rowe Price Equity Series, Inc.	Taft Broadcasting Co.
T. Rowe Price Group Inc.	Taliesin Capital Partners LP
T. Rowe Price Index Trust, Inc.	Talon Opportunity Partners
T. Rowe Price Institutional Com Trust Fund Equity Index Trust	Talon Opportunity Partners LP
T. Rowe Price Mid-Cap Value Fund, Inc.	Tamar Securities Inc
	Tangley Lloyd 1935 Trust No. 1, Tangley Lloyd, Trustee
	Taskforce & Co.
	Tax Managed Opportunity Fund LLC

Tax-Managed U.S. Equity Series of the Dfa Investment Trust Company	Td U.S. Index Fund c/o Td asset Management USA Inc.
Tax-Managed U.S. Marketwide Value Series of the Dfa Investment Trust Company	Td U.S. Large Cap Value Fund
Tbk Partners, LLC	Td U.S. Large Cap Value Fund c/o Td asset Management USA Inc.
Td Emerald Hedged U.S. Equity	Te Cael Portfolio, Ltd
Td Emerald Hedged U.S. Equity c/o Td asset Management USA, Inc.	Teachers Insurance Annuity association of America
Td Emerald Hedged U.S. Equity Pooled Fund Trust	Teachers' Retirement System of Louisiana
Td Emerald Pooled U.S. Fund	Teachers Retirement System of the State of Illinois
Td Emerald Pooled U.S. Fund c/o Td asset Management USA, Inc.	Teamsters Joint Council No. 83 of Virginia Pension Fund
Td Emerald U.S. Market Index Fund	Teamsters Local 639 Employers Pension Trust Fund
Td Emerald U.S. Market Index Fund c/o Td asset Management USA, Inc.	Telluride asset Management LLC, as Owner of the Telluride Capital Master Fund
Td Options LLC	Telluride Capital Master Fund
Td Securities S&P 500 Index Fund	Tensor Opportunity Limited
Td Securities, Inc.	Terence Rhoden
Td U.S. Index Fund	Terra Nova Financial

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Terrence R. Mcgovern and Barbara T. Mcgovern Jtten	The Alexander J. Weiss Irrevocable Trust U/A 10/12/06
Terry D. Diamond Trust Dated 5/7/86	The Alfred V. Tjarks Retirement Plan DTD 02/18/85
Tewksbury Investment Fund Ltd.	The Alfred W. Merkel Marlowe G. Merkel Trust
Texas Education Agency Texas Permanent School Fund	The Allan H. Willard Trust U/A DTD 9/7/93
Texas Presbyterian Foundation	The Alliancebernstein Portfolios (Alliancebernstein Tax-Managed Funds)
Texas Scottish Rite Hospital Endowment	The Alternative Fund
Texas Scottish Rite Hospital Retirement	The Amy W. Fong Living Trust
The 10/03/2007 Dalton Trust	The Ann C. Graff Trust
The 10/06/92 Ruth McCormick Tankersley Revocable Trust	The Anne Mccutcheon Lewis Trust U/A DTD 10/26/1987
The 12/09/90 Tommie L. Cordero Trust	The Askin Family Trust U/A DTD 09/27/1990
The 3/10/87 Trust for the Benefit of R. J. Brookes & V. M. Brookes	The Autry Community Property Trust Dated 03/15/1985
The Advisors Inner Circle Fund	The Bank of New York Mellon as Trustee of Spdr S&P Midcap 400 Etf Trust A/K/A Spdr Midcap 400 Trust
The Advisors' Inner Circle Fund	The Bank of New York Mellon as Trustee of
The Advisors Inner Circle Fund – Value Equity Fund	

<p>the Bank of New York Mellon Employee Benefit Collective Investment Fund Plan</p> <p>The Bank of New York Mellon as Trustee of the Collective Trust of the Bank of New York</p> <p>The Bank of New York Mellon, as Trustee of PG&E Postretirement Medical Plan Trust</p> <p>The Bank of New York Mellon, as Trustee of the Bank of New York Mellon Decommissioning Collective Trust Investment Plan – Dt Broad Market Stock Index Fund</p> <p>The Bank of New York Mellon, In Its Individual and Custodial Capacities</p> <p>The Barbara Clements Heller Revocable Trust DTD 3/22/01</p> <p>The Barbara M. Osborne Interim Trust DTD 2/7/02</p> <p>The Barbara M. Osborne Trust U/I/T DTD 2/7/05</p>	<p>The Barry H. Scripps Trust</p> <p>The Benjamin J. Verduco Trust U/A DTD 12/13/1989</p> <p>The Bernard and Rena Shapiro Intervivos Trust A/C #1 dated 10/15/87</p> <p>The Betty Beaird Living Trust U/A DTD 4/10/87</p> <p>The Betty Beaird Living Trust Ua 10-Apr-87</p> <p>The Betty H. Roeland Marital Trust</p> <p>The Billie J. Bouzek Trust U/A 1/28/00</p> <p>The Blackburn Trust</p> <p>The Blend Survivor's Trust Dated 12/02/99</p> <p>The Burroughs Wellcome Fund</p> <p>The Caldwell Foundation</p> <p>The Canyon Value Realization Master Fund, L.P. (as assignee of the Canyon Value Realization Fund (Cayman) Ltd.)</p> <p>The Carmine Macchiaroli Living Trust U/A 07/01/88</p>
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<p>The Catherine A. Campbell Trust, dated 9/21/1995</p> <p>The Cey Living Trust 5/14/87</p> <p>The Charles E. Edwards Family Trust U/A DTD 04/11/1990 (Sub Acct Mli)</p> <p>The Christopher J. Appleby Trust U/A DTD 12/13/89</p> <p>The Church Pension Fund, In Its Individual and Trustee Capacities</p> <p>The Clare Attwell Glassell Continuing Marital Trust</p> <p>The Consolidated Edison Retirement Plan, and Its Trustee, State Street Bank and Trust Company, in its Capacity as Trustee Thereof</p> <p>The David L. Nelson Revocable Trust Ua 02/11/91</p> <p>The Denise Palmer Revocable Trust U/A/D 10-28-1991</p> <p>The Dennis J. Fitzsimons Trust U/A DTD 03/29/2001</p>	<p>The Dennis J. Fitzsimons Trust U/A DTD 03/29/2001 Pledged to Ml Lender</p> <p>The DFA Group Trust The DFA Investment Trust Company</p> <p>The Diamond Family Foundation</p> <p>The Dichek Family Trust dated 12/11/74</p> <p>The Don & Irene Baron Family Trust 7b-251</p> <p>The Doris Keats Frank Revocable Trust Ua 03/07/00</p> <p>The Dorothy Cahn Trust Ua 07/03/1981</p> <p>The Dorothy Quaal Revocable Trust Ua 09/02/1993</p> <p>The E. Donald Heymann Trust</p> <p>The Edgar D. Gifford Trust Ua 7/15/98</p> <p>The Edward J. Sidney Trust U/A 07/22/76</p> <p>The Elaine W. Getz Trust Ua 2/5/86</p> <p>The Elaine W. Pettijohn Trust U/A 12/20/89</p> <p>The Elizabeth L. Levin 2006 Sz-2 Year Grantor Retained</p>
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Annuity Trust under Agreement dated 07/31/06	The Frederick S. Share Trust U/A DTD 11/04/88
The Erwin Shakin Delta Trust U/A 10/5/00	The Friedman Living Trust U/A 08/04/99
The Estate of Dorothy Patterson	The Gabelli Asset Fund
The Estate of Ward L. Quaal	The Gabelli Equity, Inc. Fund
The Faulkner Family Trust Ua DTD 8/29/1989	The Gabelli Global Multimedia Trust, Inc.
The Fbo Dunaway Family Trust U/A/D 07-05-1991	The Gdl Fund (f/k/a Gabelli Global Deal Fund)
The Felicity J. Appleby Trust U/A DTD 12/13/89	The Glenmede Trust Company, National association
The Fetherolf Family Trust	The Grace Trust
The Floyd C. Sanger Jr. Trust U/A 3/11/86	The Graff Valve & Fittings Company Employees Profit Sharing Plan & Trust 2 Uad 6/30/85
The Francesca J. Verduco Trust	The Hammond Family Trust U/A/D 02/11/88
The Francesca J. Verduco Trust U/A DTD 12/13/1989	The Harriet H. Glasspiegel Dl Trust U/A 6/21/89
The Franciscan Missionary Union	The Harrington Bischof Trust Uad 9/15/97
The Frank J. Mangano GST Non-Tax Exempt Trust U/A dated 6/22/94	The Harry F. Byrd Jr Revocable Trust
	The Hartford Financial Services Group, Inc. d/b/a the Hartford

The Hartmarx Retirement Income Plan	The J&M Trust Ua Dated 07/23/1992
The Harvey B. Plotnick Declaration of Trust U/A/D March 16, 1988	The J. Mcwethy Trust The James F. Polk Trust U/A DTD 12/13/89
The Helen Grossman Trust dated 09/08/99	The James G. Up De Graff Trust U/A 01/15/04
The Henry Francis Dupont Winterthur Museum, Inc.	The Jean S. Black Trust The Jerome Blank Declaration of Trust
The Henry M. Harper Jr. Trust Ua 12/22/93	The Jerome Kahn Jr. Revocable Trust DTD 10/16/87
The Henry P. Albrecht Revocable Trust U/A 1/21/74	The John & Betty Altman Family Trust Uad 05/16/86
The Herbert Vance Trust Uad 8/9/71	The John B. Lloyd Jr. Revocable Trust
The Herman R. Friedberg Revocable Trust	The John E Mayasich Trust U/A DTD 04/23/2007
The Hill Revocable Living Trust DTD 12/24/91	The John J. Vitanovec Trust U/A DTD 12/27/1996
The Howard Shulkes Residuary Credit Trust U/A DTD 09/20/1991	The John Lanfranki & Virginia Lanfranki Trust 4/29/80
The Ins. Trust U/A 4/25/67	The John N. Robson Trust B dated 9/11/1970
The Iris B. Mahoney Revocable Trust U/A/D 04/10/98	The John P. Fendley Trust U/A DTD 11/27/1995
The Iris Elston Trust Uad 5/30/95	

The John Stewart Property Trust	The Lucile Mcvey Dunn Trust U/A DTD
The John T. Mccutcheon III Trust U/A DTD	12/19/91
10/26/1987	The Madge A.L. Macneil 1988 Family Trust
The John W. Madigan Trust U/A DTD	The Mainstay Funds Trust, as Issuer of a
05/15/1998	Series Known as
The Joseph M. Fee & Elizabeth Fee	Mainstay S&P 500 Index Fund
Revocable Living Trust	The Mainstay Funds, as
The Joy Leichenger Trust	Issuer of A Series Known as Mainstay
The Kaszton Family Trust Uad 10/23/97	Common Stock Fund
The Kathleen Geary Trust U/A DTD	The Mainstay Funds, as
12/27/1996	Issuer of a Series Known as Mainstay
The Kenneth J. Vydra Trust No. 101 U/A/D	Equity Index Fund
03-10-2006	The Marital Trust of the De Goldsmith Family
The Kraft Group	Trust
The Larry L. Bloom Trust 11-21-95	The Mark A. Itkin Trust
The Loisanne R. Flaherty Trust U/A	The Mark R. Pattis Revocable Trust
DTD 09/23/2004	The Martha Gross Living Trust U/A/D
The Loretta C. Finlay Trust	04/14/1996
The Los Angeles Department of Water and Power Employees Retirement Plan Lcv	The Mary J. Bloom Trust 11-21-95
	The Mary Owen Rosenthal Trust U/A DTD October 19, 1999

<p>The Mary Shaw Mccutcheon Trust U/A DTD 10/26/1987</p> <p>The Maryland State Retirement and Pension System</p> <p>The Merger Fund</p> <p>The Michael & Rosalind Keiser Charitable Trust U/A DTD 12/30/90</p> <p>The Michael Argirion Revocable Trust U/A DTD 11/13/96</p> <p>The Michael E. Bee Trust Uad 10/20/2003</p> <p>The Michael J. Palumbo Revocable Li Trust U/A DTD 11/29/1999</p> <p>The Michael K. Reilly Trust U/A DTD 09/25/1995</p> <p>The Miller Family Trust</p> <p>The Nancy B. Heinz Family Trust</p> <p>The Nathan H. Perlman Trust B DTD 12/17/68</p> <p>The Nbln Limited Partnership</p> <p>The New Church Investment Fund</p> <p>The New York Province of the Society of Jesus</p>	<p>The Next Chapter Holdings Mark R. Pattis Revocable Trust Uad 07/30/04</p> <p>The Northern Trust Company</p> <p>The Northern Trust Company (as Successor by Merger to Northern Trust Bank, Fsb), as Trustee of the Marguerite Payne Trust Dated 6/7/61 Fbo Virginia K. Townley</p> <p>The Northern Trust Company (as Successor by Merger to Northern Trust, NA) as Trustee of the John N. Robson Trust B Dated 9/11/1970</p> <p>The Northern Trust Company (as Successor by Merger to Northern Trust, NA), as Guardian of the Estate of Dorothy Patterson</p> <p>The Northern Trust Company (as Successor by Merger to Northern Trust, NA), as Trustee of the Alpheus L. Ellis 1993 Grandchildren's</p>
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Trust Fbo Christine Gagnon	by Merger to Northern Trust, NA), as Trustee of the Dorothy C. Patterson Irrevocable Trust #2 dated 12-21-93
The Northern Trust Company (as Successor by Merger to Northern Trust, NA), as Trustee of the Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Helen Jo Cahalin	The Northern Trust Company (as Successor by Merger to Northern Trust, NA), as Trustee of the R. J. Brooks Community Property Trust
The Northern Trust Company (as Successor by Merger to Northern Trust, NA), as Trustee of the Alpheus L. Ellis 1993 Grandchildren's Trust Fbo Lynn Ann Sharpe	The Northern Trust Company (as Successor by Merger to Northern Trust, NA), as Trustee of the Richard O. Kearns Revocable Trust
The Northern Trust Company (as Successor by Merger to Northern Trust, NA), as Trustee of the Alpheus L. Ellis 1993 Great Grandchildren's Trust	The Northern Trust Company Ira Rollover Fbo Vivian Pappas
The Northern Trust Company (as Successor by Merger to Northern Trust, Na), as Trustee of the Alpheus L. Ellis 1993 Trust Fbo Carol E. Martin	The Northern Trust Company of Connecticut, as Trustee of the Ntcc Advisors Funds for Employee Benefit Trust
The Northern Trust Company (as Successor	The Northern Trust Company Pension Trust

<p>The Northern Trust Company, as Trustee of the Barbara M. J. Wood Living Trust Ua Dated 9/17/81</p>	<p>of the Harold R. Lifvendahl Trust dated 9/7/1988</p>
<p>the Northern Trust Company, as Trustee of the Caroline D Bradley Trust dated 11/30/51 Fbo Sarah Doll Barder</p>	<p>The Northern Trust Company, as Trustee of the Howard F. Ahmanson Jr. Revocable Trust</p>
<p>The Northern Trust Company, as Trustee of the Charles T. and Mary Howe Brumback Descendants Trust</p>	<p>The Northern Trust Company, as Trustee of the Jessie Ball Dupont Fund</p>
<p>The Northern Trust Company, as Trustee of the Eleanor Jackson Stern Trust dated 01/06/1971</p>	<p>The Northern Trust Company, as Trustee of the Julia Neitzert Trust</p>
<p>The Northern Trust Company, as Trustee of the Elmer H. Wavering Family Trust dated 06/24/1977 as Amended</p>	<p>The Northern Trust Company, as Trustee of the Lynn R. Wolfson Trust</p>
<p>The Northern Trust Company, as Trustee of the Emily G. Plumb Charitable Trust dated 1/8/80 as Amended</p>	<p>The Northern Trust Company, as Trustee of the Marni Horwitz Trust dated January 22, 1998</p>
<p>The Northern Trust Company, as Trustee</p>	<p>the Northern Trust Company, as Trustee of the Master Trust Between Pfizer Inc. and the Northern Trust Company (as Successor to Wyeth Master Trust))</p>

<p>The Northern Trust Company, as Trustee of the Northern Trust Company Pension Trust</p> <p>The Northern Trust Company, as Trustee of the Paul W. Dillon Grandchildren's Trust dated 12/6/41 Fbo Paul D. Goddard</p> <p>The Northern Trust Company, as Trustee of the Paula Miller Triemens Trust dated 9-18-91</p> <p>The Northern Trust Company, as Trustee of the Russell T. Stern Trust B</p> <p>The Northern Trust Company, as Trustee of the Tribune Company Master Retirement Savings Trust</p> <p>The Northern Trust Company, as Trustee of the Virginia Kearns Revocable Trust</p> <p>The Northern Trust Company, as Trustee of the Vivian B. Larsson Trust</p>	<p>The Northern Trust Company, as Trustee of the William Bross Lloyd Jr. New York Trust dated July 18, 1968</p> <p>the Northern Trust Company, as Trustee of the William Bross Lloyd Jr. Vermont Trust dated July 18, 1968</p> <p>The Northern Trust Company, as Trustee, General Dynamics Corporation Veba Trust</p> <p>The Northern Trust Company, Trustee, and Terry Diamond, Beneficiary, Terry Diamond Ira</p> <p>The O.C. Smith & P.L. Pierce Joint Revocable Living Trust DTD 7/18/2005</p> <p>The Pandion Ii Charitable Remainder Uni Trust U/A DTD 12-22-2005</p> <p>The Paul H. Dean Marital Trust A</p> <p>The Pecaro Family Trust DTD 4/12/02</p>
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<p>The Pension Boards - United Church of Christ, Inc.</p> <p>The President and Fellows of Harvard College</p> <p>The R. J. Brooks Community Property Trust</p> <p>The Rappaport Family Trust U/A DTD 06/04/1992</p> <p>The Raymond & Anna Schroer Trust U/A DTD 09/28/2006</p> <p>The Raymond John Frank Revocable Trust Ua 03/07/00</p> <p>the Reader's Digest association, Inc. Retirement Plan, and Its Trustee, the Northern Trust Company, In Its Capacity as Trustee Thereof</p> <p>The Renee H. Miller Living Trust</p> <p>The Revocable Trust for the Benefit of Christopher Lindblad U/A/D 04-20-2000</p>	<p>The Richard Haigler & Despina Haigler Living Trust U/A 11/04/91</p> <p>The Robert A. Habermann Revocable Trust U/A DTD 4/20/99</p> <p>The Robert B. Greene Jr. Trust U/A DTD 11/06/86</p> <p>The Robert H. Farrington Marital Trust Uad 09/05/05</p> <p>The Robert R. Cull Trust U/A 1/14/98</p> <p>The Robert S. Splithoff Trust U/A/D 05-27- 1992</p> <p>The Roeland Family Trust UA 8/19/86</p> <p>The Roman Catholic Archbishop of Los Angeles, A Corporation Sole</p> <p>The Ronald Cann Trust Uad 11-22-04</p> <p>The Rosenberg Revocable Trust</p> <p>The Royal Bank of Scotland N.V. f/k/a Abn Amro Bank N.V.</p> <p>The Royal Bank of Scotland Plc</p> <p>The Royal Bank of Scotland Plc (Royal</p>
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Bank of Scotland Financial Markets)	The Sherrie M. Argirion Revocable Trust U/A DTD 11/13/96
The Royal Bank of Scotland PLC, as Holder of the Accounts of Abbey Equity Fund Icvc Sub	The Siragusa Foundation
The Royal Bank of Scotland Plc, as Holder of the Accounts of US Equity Fund	The Southern California United Food and Commercial Workers Unions and Food Employers Joint Pension Trust Fund
The Russell F. Stephens Jr. Trust U/A DTD 02/10/1992	The Spurgeon Family Limited Partnership
The Ruth Stein Discretionary Trust for Joan Uad 1/2/80	The Spurgeon Family Trust Uad 10/19/92
The Sally H. Contant Trust U/A DTD 10/13/1983	The Stephanie B Flynn Trust U/A DTD 11/14/62
The Samuel S. Moore Trust U/A DTD 10/11/1988	The Stephanie Murray Living Trust
The Sara Joyce Trust U/A DTD 12/7/2005	The Strategic Opportunities Master Fund LP
The Sargeant & Luann Joys Living Trust	The Survivors' Trust
The Scheiermann Living Trust U/A DTD 08/28/1997	The Sybil Jinx Robinson Separate Property Trust
The Schuler Trust	The Teachers' Retirement System of the City of New York, by and Through the Teachers' Retirement Board
The Scripps Family Revocable Trust	

The Terrill F. Cox & Lorraine M. Cox Trust U/A DTD 3/31/98	The Trust by Mary Jo Osterman U/A/D 04/04/91 Fbo Mary Jo Osterman
The Thomas Decedent's Trust U/D/T 6/12/1981	The Trust by Mary K. Lawler U/A DTD 06/18/1996
The Thomas T. Byrd Trust Ua 01/25/82	The Trust by Michael R. Quinlan U/A DTD 09/04/1979
The Tillman Family Trust U/A 07/29/1980	The Trust by Mrs. Lois D. Kaliebe U/A DTD 03/05/1993
The Trust by Antoinette B. Brumbaugh U/A Dated 10/05/94	The Trust by Philip B. Doherty U/A DTD 04/28/2000
The Trust by Carol E. Jansson U/A DTD 06/17/1998	The Trust by R. Mark Mallory U/A DTD 12/30/1999
The Trust by Donald L. Miller U/A DTD 05/20/1982	The Trust by Richard A. Kucera & Diane A. Kucera U/A/D 03-23-07 Fbo Richard & Diane Kucera
The Trust by Edwin J. Hayes Jr. U/A DTD 5/26/2006	The Trust by Robert Parrillo U/A DTD 12/27/1990
The Trust by Elaine T. Bovaird U/A DTD 02/18/1993	The Trust by Ruthellyn Musil U/A DTD 07/27/2001
The Trust by James T Smith U/A DTD 10/09/1995	The Trust by Scott C. Smith U/A DTD 04/16/1983
The Trust by John and Jann Reardon U/A DTD 11/03/1999	
The Trust by Margaret R. Coniglio U/A DTD 08/22/1989	

<p>The Trust by Thomas J. Osterman U/A/D 04/04/91 Fbo Thomas J. Osterman</p> <p>The Trust by Walter E. Graham U/A DTD 10-16-2000</p> <p>The Trust by Walter K. Graham for the Benefit of Anne G. Taylor U/A DTD 10/16/2000</p> <p>The Trust Fbo Robert Joseph White U/A/D 06/16/99</p> <p>The Trust for the Benefit of Bernard Rabinowitz U/A/D 09-11-2006</p> <p>The Trust for the Benefit of John A. Orb U/A/D/ 11/02/04</p> <p>The Trust for the Benefit of John F. Barnard Uad 4/4/03</p> <p>The Trust for the Benefit of Paul P. Mahoney DTD 12/28/1978</p> <p>The Trust for the Benefit of Samuel H Frankel U/A/D 01/28/80</p>	<p>The Trust for the Benefit of Sherry P. Broder U/A DTD 1/1/94</p> <p>The Trust for the Benefit of Susan H. Shane</p> <p>The Trust U/A DTD 02/23/1981 by Michael Rosenberg</p> <p>The Trust U/A DTD 11/02/1977 by Robert Rosenberg</p> <p>The Trust U/A DTD 8/22/1989 by Mary Coniglio</p> <p>The Trust U/A DTD 8/22/1989 by Mary Coniglio Gsst Te Trust</p> <p>The Trust U/I Katherine Pratt Twichell Dated July 27, 1964 for the Issue of Harmony T. Clement</p> <p>The Trust U/W Charlene Frost</p> <p>The Trust under an Agreement dated December 13, 1976 between Virginia S. Risley, as Settlor, and William H. Risley, Charles Joseph De Sieyes and United States Trust Company</p>
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<p>of New York, as Trustees The Trust under an Agreement dated December 13, 1976 between Virginia S. Risley, as Settlor, and William H. Risley, David C. De Sieyes, and United States Trust Company of New York, as Trustees The Trust under an Agreement dated December 19, 1977 between Virginia S. Risley, as Settlor, and William H. Risley and United States Trust Company of New York, as Trustees The U/A Dta 03/29/04 Joanne Desherow Sanger Living Trust The Vanguard Group, Inc. The Verna R. Harrah Trust Special Account DTD 9/5/86 The Victoria Badali Dec of Living Family Trust Uad 12/9/98</p>	<p>The Ward L. Quaal Revocable Trust UA 09/02/1993 The Weege Family Trust U/A 6/21/89 The Wendy & Natalie Trust Uw Walter Blum The Whittier Trust Company The Will K. Weinstein Revocable Trust U/A DTD 2-27-90 The William A. Osborn 2004 Trust U/A 9/9/04 The William D. Mac Donald & Nancy L. Mac Donald Trust Ua 7 21 The William J. Byrnes Trust U/A DTD 11/14/62 The William James Bell 1993 Trust U/A 8/23/93 (Cash & Holding Account) The Woods/Mitchell Family Trust The Workers Compensation Board - Alberta The Yeomans Family Trust U/A 2/22/92 Therese M. Cushing</p>
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Third Millennium Trading LLC	Survivor's Trust Dated 12/02/99
Thomas B. O'keefe	Thomas R. Blend, as
Thomas E. Mitchell Iii	Trustee of the Blend
Thomas F. Friedberg, as	Decedent's Trust Uad
Trustee of the Herman	12/2/99
R. Friedberg Revocable Trust	Thomas W. Hundley
Thomas G. Hubert	Thomasyne C. Hubert
Thomas J. Kuhn, as a	Thorne, Carl F and
Trustee of the Robert	Rosella M Thorne
J. Kuhn Declaration of	Thrift Plan for the
Trust dated 4-6-92	Employees of the
Thomas J. Majorana	Federal Reserve
Thomas J. Osterman,	System
Individually and as	Thrivent Financial for
Trustee of the Trust by	Lutherans f/k/a
Thomas J. Osterman	Lutheran Brotherhood
U/A/D 04/04/91 Fbo	Thrivent Series Fund,
Thomas J. Osterman	Inc.
Thomas Jeavons, as	Thrivent Series Fund,
Trustee of the Jessie	Inc., as Owner of the
Ball Dupont Fund	Thrivent Series Fund
Thomas Leach	Balanced Portfolio
Thomas Leach and	Thrivent Series Fund,
Tracy Leach	Inc., as Owner of the
Thomas Lezette, as	Thrivent Series Fund
Executor of the Nancy	Large Cap Index
Lezette Estate	Portfolio
Thomas M. Owens	Tiaa Board of Overseers,
Thomas P. O'keefe	as Trustee
Thomas Perry	Tiaa -Cref Investment
Thomas R Blend, as	Management, LLC
Trustee of the Blend	Tiaa-Cref Funds

Tiaa-Cref Institutional Mutual Funds	Tradeworx Securities, Inc.
Tiaa-Cref Life Funds	Traits Omni
Tiffany Wolfe	Transamerica asset
Timber Hill LLC	Management, as
Time Warner Inc.	Owner of the Dia Mid
Master Pension Trust	Cap Value Portfolio
Times Mirror Savings Plus Plan	Transamerica Blackrock
Timothy A. Sewell	Large Cap Value VP
Timothy Landon	(f/k/a Transamerica T.
Timothy Landon and Elizabeth Landon	Rowe Price Equity
Timothy R. Kennedy	Income VP)
Timothy S. Pecaro	Transamerica Partners
Tlcd List LP	Mid Value Portfolio
TMI	(f/k/a Transamerica
TMS/its Settlement	Partners Mid-Cap
Account for HFF I LLC	Value Portfolio F/K/A
Tocqueville asset	Diversified Investors
Management LP	Mid-Cap Value
Tommie L. Cordero, as a Trustee of the 12/09/90	Portfolio)
Tommie L. Cordero Trust	Transamerica Partners
Tompkins Financial Corporation F/K/A	Portfolios (f/k/a
Tompkins Trustco, Inc.	Diversified Investors
Toro Trading LLC	Portfolios)
Towerview LLC	Transamerica Series
Tracy Leach	Trust (f/k/a
Tradelink LLC	Aegon/Transamerica
Tradeworx Securities LLC	Series Trust)
	Tre Pension Eft Account
	Pension Payment
	System
	Treasurer of the State of
	North Carolina

Treasurer of the State of North Carolina Index	Trustees of Boston College
Tribune Co Com Stk Tender Exp, Tensor Opportunity Limited c/o M. Safra & Co., Inc.	Trustees of the Central States, Southeast and Southwest Areas Pension Fund, as Administrator of the Central States, Southeast and Southwest Areas Pension Fund
Tribune Company 401(K) Savings Plan	Tweedy Browne Funds Inc. [Tweedy, Browne Fund Inc.]
Tribune Company Master Retirement Savings Trust	Tweedy, Browne Company, LLC
Tribune Employee Stock Ownership Plan	Twin Securities, Inc.
Trinity Derivatives Group LLC	U.S. Bank National association as Trustee of the Us Bancorp Pension Plan
Trudy V. Dunaway, as a Trustee of the Fbo Dunaway Family Trust U/A/D 07-05-1991	U.S. Core Equity 1 Portfolio of Dfa Investment Dimensions Group, Inc.
Trust by Alyce Tuttle Fuller U/A DTD 10/03/2003	U.S. Core Equity 2 Portfolio of Dfa Investment Dimensions Group, Inc.
Trust D for A Portion of the Assets of the Kodak Retirement Income Fund Plan	U.S. Large Cap Value Series of the Dfa
Trust for the Benefit of Mary Anne Vydra U/A/D 03-10-2006	
Trust U/W of Sol Diamond Dated 12/4/72	
Trust Ua E. L. Sanford Children Fbo Ada	

Investment Trust Company	Trust Fiduciary Services Company
U.S. Large Company Equity Fund	Ubs O'connor LLC
U.S. Large Company Portfolio of Dimensional Investment Group, Inc. (f/k/a U.S. Large Company Series of the Dfa Investment Trust Company)	Ubs Securities LLC
U.S. Shares Programs	Ubs Securities LLC as Successor to Ubs Securities Inc.
U.S. Vector Equity Portfolio of Dfa Investment Dimensions Group, Inc.	Ud Virginia S. Risley Jt Risley
U/A/D 07-14-2000 Fbo the 2000 Peckham Family Trust	Ufcw International Union-Industry Pension Fund
Ua Local Union office & Employees [United ass'n of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry]	Umc Benefit Board, Inc.
Ubs Ag	Umwa 1974 Pension Trust
Ubs Financial Services Inc.	Unisys Corporation
Ubs Ftc S&P 500 Index Portfolio, John Doe, as Owner of, Wilmington	Unisys Master Trust
	United Church of Christ, Defined Contribution
	United Food & Commercial Workers International Union—Industry Pen Fd
	United Food and Commercial Workers Unions and Employers Midwest Pension Fund
	United States Trust Company of New York, as Trustee of the Trust
	U/I Katherine Pratt Twichell Dated July 27, 1964 for the Issue

of Harmony T. Clement	US Bank N.A. as Trustee of Dorothy R Moog Family Trust
United States Trust Company of New York, as Trustee of the Trust under an Agreement dated December 13, 1976 Between Virginia S. Risley, as Settlor, and William H. Risley, David C. De Sieyes, and United States Trust Company of New York, as Trustees	US Bank N.A. as Trustee of Lay Employees of the Archdiocese of Cincinnati Defined Benefit Plan
United Teamsters Pension Fund "A," by and Through Its Board of Trustees	US Bank N.A. as Trustee of Thelma Orshek Testamentary Trust
United Technologies Corp. Master Retirement Trust, John Doe, Trustee for	US Bank N.A. as Trustee of William B. Denhart Nonqualifying Trust under Will of William B. Denhart
University of California Board of Regents	US Bank N.A. as Trustee of Wm & Jane Hays Charitable Remainder Unitrust
University of Toronto Master Trust	USAA Federal Savings Bank, In Its Custodial Capacity
US Bank N.A. as Trustee of Andersen Defined Benefit	USAA Investment Management Company
US Bank N.A. as Trustee of Bellin Hospital	USAA Mutual Funds Trust
	V Trader Pro LLC
	V. M. Brookes
	VA U.S. Large Value Portfolio of Dfa Investment

Dimensions Group, Inc.	Vanguard Fiduciary Trust Company, as Trustee of Its Sponsored and Managed Collective Investment Funds
Valic Company I [Stock Index Fund, A Series of Valic Company I f/k/a Aig Retirement Company I]	Vanguard Fiduciary Trust Company, Custodian, and John Maher, Beneficiary, John Maher Ira Rollover Account
Value Fund, a Series of First Investors Equity Funds	Vanguard Fiduciary Trust Company, Custodian, Steve H. Kagan Ira Rollover Account
Value Fund, a Series of First Investors Life Series Funds	Vanguard Fiduciary Trust Company, Custodian, William O. Howe Ira
Value Line asset Management	Vanguard Fiduciary Trust Company, Russell 1000 Value
Value Line Income & Growth Fund (f/k/a Value Line Income Fund)	Vanguard Ftse Social Index Fund
Vanderbilt Partners, LLC	Vanguard Growth & Income Fund
Vanguard Asset Allocation Fund	Vanguard High Dividend Yield Index Fund
Vanguard Balanced Index Fund (f/k/a Vanguard Balanced Index Equity Fund)	Vanguard Index 500 Fund
Vanguard Consumer Discretionary Index Fund	Vanguard Index Funds
Vanguard Equity Income Fund	
Vanguard Fenway Funds	

Vanguard Institutional Index Fund	Vanguard Value Index Fund
Vanguard Institutional Index Funds	Vanguard Variable Insurance Fund
Vanguard Institutional Total Stock Market Index Fund	Vanguard Variable Insurance Funds
Vanguard Large Cap Index Fund	Vanguard Vvif Equity Fund Index
Vanguard Malvern Funds	Vanguard Vvif Equity Income Vgi
Vanguard Mid-Cap Index Fund	Vanguard Vvif Midcap Index Fund
Vanguard Mid-Cap Value Index Fund	Vanguard Whitehall Funds
Vanguard Quantitative Funds	Vanguard Windsor Funds
Vanguard Scottsdale Funds	Vanguard Windsor Ii Fund
Vanguard Structured Large-Cap Equity Fund	Vanguard World Fund (f/k/a Vanguard World Funds)
Vanguard Tax Managed Growth & Income Fund	Vantagepoint Funds
Vanguard Tax-Managed Fund	Varda Rabin, as Trustee of the Irving & Varda Rabin 1992 Revocable Trust
Vanguard Tax-Managed Funds	Variable Insurance Products Fund II [VIP Index 500 Fund, A Series of Variable Insurance Products Fund II]
Vanguard Total Stock Market Index Fund	Veba Partnership N L.P.
Vanguard Valley Forge Funds	Veba Partnership X L.P.

Veritable Partnership Holding, Inc.	Living Family Trust Uad 12/9/98
Verizon Investment Management Corporation	Violet Payne Virgil Smith Ray
Vermont State Employees Retirement System	Virginia A. Kearns, as Trustee of the Virginia Kearns Revocable Trust
Vern M. Strickler	Virginia College Savings Plan
Verna R. Harrah, as Trustee of the Verna R. Harrah Trust Special Account DTD 9/5/86	Virginia G. Shuster Virginia K. Townley
Vftc - Vanguard Company Stock Account 21	Virginia Kearns Revocable Trust
Vicesel Group Inc.	Virginia Lanfranki, as Trustee of the John Lanfranki & Virginia Lanfranki Trust
Victor Grossi	4/29/80
Victor Grossi Trust Ua DTD 05/08/98 Fbo Victor Grossi	Virginia Retirement System
Vikram Parvataneni	Virginia Sonnenschein Trust
Vilma L Chantiles Jt Ten	Virginia Sonnenschein, as Trustee of the Virginia Sonnenschein Trust
Vilma L. Chantiles	
Vincent A. Badali, as A Trustee of the Victoria Badali Dec of Living Family Trust Uad 12/9/98	Vivian B. Larsson Trust Vogel Consulting Group, S.C.
Vincent A. G. Badali, as A Trustee of the Victoria Badali Dec of	Vyvian Heath W M Vanneman W Vanneman Jr Ttee, William M Vanneman

TR Amended 6/1/2007	Ward L. Quaal
U/A 5/6/92	Warren B. Williamson
W. Milton Jr. Trust	Warren B. Williamson,
under Will for the	as Trustee of the
Benefit of Anna	Chandler Trust No. 1
Livingstone	Warren B. Williamson,
W. Rockwell Wirtz	as Trustee of the
W. Wrigley Jr.	Chandler Trust No. 2
Christmas Trust	Warren J. Eide
W.G. Lassiter Jr.	Washington Area
Wabash/Harvest	Carpenters Pension
Partners LP (f/k/a	Fund
Wabash Harvest	Water and Power
Partners LP)	Employees'
Wachovia Bank f/k/a	Retirement, Disability,
Wachovia Bank, N.A.	and Death Benefit
Walker House Spv Ltd.	Insurance Plan
Walt Disney Company	Waterman Broadcasting
Walter Baum	Corp Employee Profit
Walter E. Graham	Sharing Plan U/A
Walter E. Graham, as	01/01/1974
Trustee of the Trust by	Waterman Broadcasting
Walter K. Graham for	Corp. Employee Profit
the Benefit of Anne G.	Sharing Plan U/A
Taylor U/A DTD	01/01/1974
10/16/2000	Waterman Broadcasting
Walter K. Graham	Inc.
Walter K. Taylor	Waterman Broadcasting
Walters Art Gallery,	Investment
Inc., d/b/a the Walters	Corporation
Art Museum	Wayne F. McNulty
Walters Trustees	Wayne F. McNulty and
Consolidated Fund-	Irene M. McNulty, a
Fixed Income	

Washington Marital Community	Westchester Capital Management LLC
Wayne Hummer Trust Co NA	Wg Trading Company LP
Wealth Management Services	Whi Growth Fund
Wedbush Morgan Securities, Inc.	White Mountains Re Bermuda Ltd.
Wedbush Securities, Inc.	White Mountains Reinsurance Company of America
Weintraub Capital Management	Whitebox Diversified Convertible Arbitrage Fund LP
Weiss Multi-Strategy Partners LLC	Whitebox Hedged High Yield Fund, L.P.
Welch and Forbes LLC	Whitney, Clara, Trustee for Anne Mckenny
Welfare & Pension Administration Services Inc., as Administrator of the Automotive Machinists Pension Trust Fund	Will K. Weinstein, as Trustee of the Will K. Weinstein Revocable Trust U/A DTD 2-27- 90
Welfare and Pension Admin. Service, Inc., as Administrator of the International Union of Operating Engineers Construction Industry Retirement Fund for Locals 302 and 612	William A. Osborn William A. Osborn, Trustee of the William A. Osborn 2004 Trust U/A 9/9/04
Wells Fargo Bank, N.A.	William Apfelbaum
Wells Fargo Investments, LLC	William Blair & Co.
Wellspan Health Master Trust	William Bross Lloyd Jr. New York Trust Dated July 18, 1968
Wellspan Health System	

<p>William Bross Lloyd Jr. Vermont Trust Dated July 18, 1968 William Caplice Revocable Trust William D. Mac Donald, as Trustee of the William D. Mac Donald & Nancy L. Mac Donald Trust UA 7 21 William E Steiger and Beverly Steiger William F. Thomas Jr., as Trustee of the Thomas Decedent's Trust U/D/T 6/12/1981 William F. Warchol William H. Risley, as Trustee of the Trust Under An Agreement Dated December 13, 1976 Between Virginia S. Risley, as Settlor, and William H. Risley, Charles Joseph De Sieyes and United States Trust Company of New York, as Trustees William H. Risley, as Trustee of the Trust Under An Agreement Dated December 13, 1976 Between Virginia</p>	<p>S. Risley, as Settlor, and William H. Risley, David C. De Sieyes, and United States Trust Company of New York, as Trustees William H. Risley, as Trustee of the Trust under an Agreement dated December 19, 1977 Between Virginia S. Risley, as Settlor, and William H. Risley and United States Trust Company of New York, as Trustees William J. Bell, as Trustee of the William James Bell 1993 Trust U/A 8/23/93 (Cash & Holding Account) William J. Brown William J. Byrnes, as Trustee of the Stephanie B Flynn Trust U/A DTD 11/14/62 William J. Byrnes, as Trustee of the William J. Byrnes Trust U/A DTD 11/14/62 William K. Mcgee Jr. William Kaszton, as Trustee of the Kaszton</p>
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Family Trust Uad 10/23/97	William V. Monopoli
William M. Garland Iii	William V. Monopoli and Mary K. Monopoli
William Murphy	William W. Howells
William O. Howe	Williams, David D. and Sandra L. Williams
William Osborn, as Trustee of the Herman R. Friedberg Revocable Trust	Jtwros Willow Creek Capital Partners
William P. Hammond Trust	Willow Creek offshore Fund
William P. Hammond, Trustee	Wilmington Fiduciary Trust Services Co. (f/k/a Ubs Fiduciary Trust Co.) Collective Investment Trust for Employee Benefit Plans
William P. Mumma and Kathleen A. Mumma	Wilmington Trust Co. as Owner and Trustee of Forrestal Funding Master Trust
William R Hough Charitable Remainder Unit Trust Dated 12/21/2001	Wilmington Trust Company, as Trustee of Christiana Care Health Services Retirement Plan
William R. Hough	Wilmington Trust Company, as Trustee of Self-Insurance Reserve Fund
William R. Lynch	Wilshire 5000 Index Fund
William Sanderson Twaddell	
William Stinehart Jr.	
William Stinehart Jr., as Trustee of Chandler Trust No. 1	
William Stinehart Jr., as Trustee of Chandler Trust No. 2	
William Stinehart Jr., as Trustee of Stinehart Living Trust Ua DTD 05/19/89	

Wilshire Mutual Funds, Inc., as Owner of the Wilshire 5000 Index Fund	Wrigley, William Jr., Trustee, W. Wrigley Jr. Christmas Trust
Wilshire Variable Insurance Trust	Xcel Energy Inc.
Wilshire Variable Insurance Trust Equity Fund	Yield Strategies Fund I LP
Wilshire Variable Insurance Trust Socially Responsible Fund	Ziegelman Partners LP Ziegler Family Trust A Zoltan Horvath Zoltan Horvath and Lidia Horvath Zoological Society of San Diego
Winchester Evening Star, Inc.	
Wirtz Corporation	
Wisconsin Reinsurance Corp	
Wolverine Convertible Arbitrage Fund LLC	
Wolverine Trading LLC	
Woodmont Investments Ltd.	
Worldwide Transactions Limited	
Wpg Ericott Merger Arbitrage Overseas LP	
WPML Limited Partnership	
WR Capital Management LLC	
WR Capital Management LP	

Retiree Respondents

1IA Spx1	Antoinette B
A. G. Edwards & Sons, LLC	Brumbaugh TTEE U/A DTD 10/05/94 by
A. G. Edwards Private Equity Partners Iii, L.P.	Antoinette B Brumbaugh Pledged oo Ml Lender
A. G. Edwards, Inc. A/C Csfb Prop Trading Us	Ariel Capital Management Ariel/Aprf/Ariel Appreciation Fund
Abbey National Securities Inc	Ariel/Maxmid/Maxim Midcap Portfolio
Aerial Investments, LLC	Arthur L. Holden
Alberta - Wcb	Assent LLC
Alberta W. Chandler Marital Trust No. 2	Attn Intl Program Trades
Alexandra Global Master Fund Ltd	Aviv Nevo
Alliancebernstein L.P.	B Trade Services LLC
Allianz Invest Kag	B Woods & L Mitchell TTEE - Woods/Mitchell Family Trust U/A DTD 01/25/1999
Alpine associated LLC	Banc of America Securities LLC
Alpine associates Access LLC (A/K/A Alpine associates LLC)	Bank of America Corporation
Alyce Tuttle Fuller Ttee	Bank of America, N.A.
AM Master Fund 111, LP	Bank West Trust I Bank West Trust II
Amalgamated Bank	Barclays Capital, Inc.
American Enterprise Investment Services Inc.	Barclays GBL Investors NA
Amida Partners Master Fund Ltd	Baxter

Bechtel	Intermediate (U.S.)
Bellsouth Corp. Non-Representable Health Care Trust	Gp, L.P.
Bernard and Barbro Osher 2006 Charitable Rem Unitrust #2	BMO Nesbitt Burns Employee Co-Investment Intermediate (U.S.), L.P.
Bernard Osher 2006 Charitable	BMO Nesbitt Burns Trading Corp. S.A.
Bernard Osher Trust U/A DTD 3/8/88	BMO Nesbitt Burns U.S. Blocker Inc.
Betsy D. Holden	BMR 2 LLC
Beverly Perry	BNP Paribas Prime Brokerage, Inc.
Blackport Capital Fund Ltd	BNP Paribas Securities Corp.
Blackrock Institutional Trust	Bruce Kirkpatrick
Blue Chip Fund, a Series of First Investors Life Series Funds	BZW Securities, Inc.
Bmo Nesbitt Burns Corp.	CA Public Ee Retrmnt Sys
Bmo Nesbitt Burns Employee Co-Investment Fund I (U.S.) L.P.	California Ironworkers Field
Bmo Nesbitt Burns Employee Co-Investment Fund I Management (U.S.) Inc.	Calpers (California Pub. Emp. Retire. Sys.)
BMO Nesbitt Burns Employee Co-Investment	Calpers (Dynamic Completion Fund)
	Camilla Chandler Family Foundation
	Canadian Imperial \$55arb
	Cantigny Foundation
	Cantor Fitzgerald & Co.
	Carl Zlatchin Profit
	Carlyle Multi-Strategy Master

Catherine A Verduco as Trustee U/A DTD 12/13/1989 Francesca J. Verduco Trust	Citadel LLC (F/K/A Citadel Investment Group, LLC)
Catherine A Verduco Ttee U/A DTD 12/13/1989 Benjamin J. Verduco Trust	Citibank, N.A. Citigroup Global Markets, Inc.
Catholic Health West CHW	City National Bank of New Jersey Capital Trust I
CBS Master Trust Cecil Smith	CMA Omnibus Cnty Empl Annty & Ben Fnd Cook Cnty
Cedar Grove Cem assn Perp Care	Collective Trust of the Bank of New York
Central States SE & SW Areas	Comerica Bank Confidential Stock Transferees
Chandler Bigelow Chandler Trust No. 1 Chandler Trust No. 2	Consolidated Edison of NY K801
Charles Schwab & Co., Inc.	Crane H. Kenney Credit Agricole Securities (USA) Inc.
Charles Schwab Inv. Mgt. Co	Credit Suisse (USA), Inc.
Cheyne Capital Management, Inc.	Credit Suisse First Boston
Cheyne Capital Management, LLC	Credit Suisse Securities (USA) LLC
Chicago Tribune Foundation	Credit Suisse- Investment Banking and Security Investment Division
Christopher Reyes Cibc World Markets Corp.	Cutler Group LP
Cibc World Markets, Inc.	D E Shaw Valence Portfolio LLC
Cim Xvi LLC	

D.E. Shaw Investment Management, L.L.C.	Dorothy Quaal Revocable Trust dated 09/02/1993
Daryl V Dichek	Dr. David L. Hoexter Ira R/O
Davenport & Company LLC	Drawbridge Global Macro
David D. Grumhaus 1990 Trust	Dreyfus Index Funds, Inc Dreyf
David Hiller	Dreyfus Stock Index Fund, Inc.
Db AG Equity Swaps offshore - Consolidated Account I	Earl E. Crowe Trust No. 2
Dbso Securities Ltd.	Eaton Vance Management
De Shaw Oculus Port LLC - Us A	Eaton Vance Management, Inc.
Delos Insurance Company	Echotrade LLC
Dennis J. Fitzsimons	E-Connectivity Avg Px
Dennis J. Fitzsimons Trust dated 3/29/2001	Edward D. Jones & Co., L.P.
Deutsche Bank - Private Banking and Investment Banking Investments Division	Elizabeth Landon
Deutsche Bank Secs Inc	Enrique Hernandez Jr.
Deutsche Bank Securities Inc.	Eric D. Werthman
Dimensional Fund Advisors LP	Erturk Ozbek Ttee
Donald C. Grenesko	Eureka Options LLC
Donald M. Hinman Jr.	Ewt, LLC
Dorothy B. Chandler	Fao Deephaven
Marital Trust No. 2	Fao Havens Advisors LLC
Dorothy B. Chandler	Federated Investors
Residuary Trust No. 2	Federated Investors Corporation
Dorothy Quaal	Fifth Third Bank
	First Bank & Trust

First Clearing LLC	Gaspare Locascio &
First Option Consulting, Inc.	Dolores Locascio Jt Wros
First Option Debt Solutions Ltd.	Gene C Mccaffery
First Option Funding Corp.	Gerald W Agema Ttee
First Republic Bank	Glass Lewis & Co.
Firststar Trust Company	Glenmede Trust Company, N.A.
Flexible US Equity Managers	Gmimco Trust
Forestal Funding Master Trust	Goldentree Master Fund II, Ltd.
Gabelli asset Management Company	Goldentree Master Fund Ltd.
Gabelli Avg Price 2	Goldentree
Gabelli Equity Trust Inc	Multistrategy offshore Fund
Gabelli Funds, Inc.	Goldman Sachs
Gabelli Funds, Inc. - Gabelli ABC Fund	Execution & Clearing, L.P.
Gabelli Funds, Inc. - Gabelli Funds Inc.	Goldman Sachs International Holdings LLC
Gabelli Funds, Inc. - the Gabelli asset Fund	Goldman, Sachs & Co.
Gabelli Funds, Inc. - the Gabelli Equity Inc. FD	Greenock Multi-Strategy
Gabelli Funds, Inc. -the Gabelli Global Multimed TR	Greywolf Capital Management L.P.
Gabelli Global Deal Fund	Gryphon Hidden Value VIII LP
Gabelli Value Fund, Inc.	Gryphon Hidden Values Viii Ltd
Gamco Investors, Inc.	Gulco Corp
Garland Foundation Trust No. 2	Halcyon Diversified Fund LP
	Harbor Capital Group Trust

Havens Partners Enhanced Fund, L.P.	Hudson Bay Master Fund Ltd
Havens Partners, L.P.	IBM Personal Pension Plan Trust
HBK Investments L.P.	Illinois State Board of Invest
Helen Garland Trust No. 2 (for Gwendolyn Garland Babcock)	Instinet Corp NY
Helen Garland Trust No. 2 (for Hillary Duque Garland)	Interactive Brokers Inc.
Helen Garland Trust No. 2 (for William M. Garland Iii)	Iolaire Investors LLP
Herbert G. Lau Profit Sharing QRP Participation	Iris B. Mahoney & Paul M. Mahoney Ttees for Iris B. Mahoney Revocable Trust U/A/D 04/10/98
HFR Asset Mgmt. LLC	Irving & Varda Rabin 1992 Revocable Trust
Himan Brown	J.J.B. Hilliard, W.L.Lyons, LLC
HOC GST Exempt Trust No. 2. Fbo Eliza Haskins	James Rothermel
HOC GST Exempt Trust No. 2. Fbo John Haskins	James Thomas Wirth
HOC GST Exempt Trust No. 2. Fbo Scott Haskins	Jann M. Reardon
HOC Trust No. 2 Fbo Eliza Haskins	Janna L Gadden
HOC Trust No. 2 Fbo John Haskins	Jefferies & Company, Inc.
HOC Trust No. 2 Fbo Scott Haskins	Jeffrey Chandler
Hudson Bay Fund LP	Jianshi Mao
	John E. Reardon
	John J Vitanovec TTEE
	John W. Madigan TTEE
	Joy Leichenger Ttee - Joy Leichenger Trust - U/A DTD 08/02/1978
	Kaiser Fdn Hlth Plans+Hospital
	Kelly Kenney

Kenneth Cahn	Matthew Halbower
Key Bank, N.A.	Max S Bell and Jean F
Labranche Structured	Bell
Products LLC	May C. Goodan Trust
Legent Clearing LLC	No. 2
Leonard F. Hill, Ttee	Mellon Trust of New
Hill Revocable Living	England, National
Trust DTD 12/24/91	association
Lewin Trust Dated	Mergers Invtmt Trd
05/14/1997	Merrill Lynch & Co., Inc.
Lewis Taman	Merrill Lynch Capital
Lft Partnership	Corporation
Lispenard Street Credit	Merrill Lynch, Pierce,
Master Fund	Fenner & Smith
Loeb Arbitrage	Incorporated
Management LP	Met Life
LPI Financial	Metropolitan Life
Corporation	Insurance Company
Lucile M Dunn Ttee U/A	Michael J. Liccar & Co.
DTD 12/19/1991 Lucile	Miles D. White
Mcvey Dunn Trust	Miles D. White 1994
Luis E. Lewin	Trust dated 08/24/1994
M.L. Stern & Co., LLC	Millenco Llp
Manufacturers and	Monica K. Hinman
Traders Trust	Monumental Life
Company	Insurance Co
Marcia Grenesko	Morgan Stanley & Co.
Marian Otis Chandler	LLC (f/k/a Morgan
Trust No. 2	Stanley & Co.
Martha P. Pope, as	Incorporated)
Executrix for the	Morgan Stanley Smith
Estate of Leavitt J.	Barney LLC
Pope	Morgan, Keegan &
Mary F Brown	Company, Inc.
Mary Rothermel	Mrs Lois D Kaliebe Ttee

Ms Select-Value Added Market	Mahoney DTD 12/28/1978
Name	PCRG (Fund I, LLC)
Nancy Fay Johnson	PCRG (Fund II, LLC)
Natixis Bleichroeder Inc.	PCRG (Fund III, LLC)
Natixis Securities North America Inc.	Penson Financial Futures, Inc.
Neuberger Berman Inc.	Penson Financial
Neuberger Berman LLC	Services, Inc.
New York City Deferred Compensation	Perry Capital L.L.C.
New York State	Pershing LLC
Teachers Retire	PG&E Qual Cpuc Ndt Partnership
Newedge USA, LLC	Philip B Doherty Ttee
Nicholas H. Werthman	Philip Chandler
Nomura Securities International, Inc.	Residuary Trust No. 2
Northern Trust Global Advisors, Inc.	Phoenixx Inc
NYC District Council Carpenters	Pnc Bank, Delaware
NYC Employees Retirement System	Polly H. Howells
Oppenheimer & Co. Inc.	Pond View Credit (Master) LP - Tradi
Optionsxpress, Inc.	Powershares Ftse Rafi US 1000
O'shaughnessy	Prime Broker Cssi Stock Split
Paris Trading	Prism Partners I
Patricia Crowe Warren Residuary Trust No. 2	Prism Partners II offshore Fund
Patricia H Yeomans TTEE - the Yeomans Family Trust U/A 2/22/92	Prism Partners II, L.P. Prism Partners III Leverage LP
Paul M Mahoney Ttee U/W/O Paul P	Prism Partners IV Leveraged offshore Fund Prism Partners offshore

Prism Partners offshore Fund	Family Trust - U/A 6/21/89
Ps Buyback Achievers Port	Relative Value FD LP (a/k/a Highbridge Event Drvien Opportunities Fund, L.P.)
Putnam Lovell NBF Securities Inc	Reliance Trust Company
Quintessence Fund L.P.	Richard & Carol askin TTEE U/A DTD 09/27/1990 by askin Family Trust
Qvt Fund LP	Rief Rmp LLC
R. Mark Mallory	Rief Trading LLC
R. Mark Mallory Trust Dated 12/30/1999	Robert D Bosau
Raymond James Financial Services, Inc.	Robert D Friedman TTEE - Friedman Living Trust -U/A 08/04/99
Raymond James Ltd. (USA), Inc.	Robert R. McCormick Foundation
Raymond James Trust N.A.	Robert S. Morrison
RBC Capital Markets Arbitrage, LLC	Robert S. Morrison 2000 Trust dated 11/30/2000
RBC Capital Markets Corporation	Roger Goodan
RBC Capital Markets Holdings (USA) Inc.	Romano Brothers Investors, LLC
RBC Capital Markets, LLC	Rose T Bosau
RBS Securities Inc.	Rosenberg Revocable Trust - Claude and Louise Rosenberg Trustees
Re Camden asset Mgmt LP	Ruth C. Von Platen Trust No. 2
Reardon Trust dated 11/03/1999	
Regions Bank	
Regions Financial Corporation	
Reinhold & Shelley Weege TTEE - Weege	

Ruth McCormick Tankersley Ruth McCormick Tankersley Trust dated 12/3/1990 Ruthellyn Musil Ruthellyn Musil Trust Dated 7/27/2001 Rwb Sacramento Cnty Emp Ret System Samuel Moore Ttee - Samuel S. Moore Trust - U/A DTD 10/11/1988 Samuel Zell San Pasqual Fiduciary Trust Co. Sandelman Partners Sanford C. Bernstein & Co., LLC Sbi Swaps Sc Edison Nuclear Facilities Schultze asset Management, LLC Scotia Capital (USA) Inc. Scott C. Smith Scott Smith Sempra Energy Pension Mstr Trst Sg Americas Securities, LLC Shirley Dichek Ttee - Dichek Family Trust -	U/A 12/11/74 Fbo Shirely Dichek Southwest Securities, Inc. Spear Leeds and Kellogg Standford University Lcv State Street Bank & Trust Company State Street Global Advisors, Inc. State Street Luxembourg, S.A. Stephanie B Flynn & William J. Byrnes Ttees Stephens, Inc. (a.k.a. Stephens Inc.) Stifel, Nicolaus & Company Incorporated Stock Borrowed-Ny Strategic Funds, Inc. Strs Suntrust Bank Suttonbrook Capital Portfolio LP Swiss American Advisors, LLC Swiss American Corporation Sylvia Lewin Synergy Capital Management LLC T. Rowe Price Group, Inc.
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Talon Opportunity Partners LP	The Whittier Trust Company
Tbk Partners, LLC	Thomas D. Leach
Terra Nova Financial, LLC	Tiaa-Cref
The Bank of New York Mellon Corporation	Time Warner Inc Master Pension
The Bank of New York Mellon Employee Benefit Collective Investment Fund Plan (f/k/a the Mellon Bank, N.A. Employee Benefit Collective Investment Fund Plan)	Timothy Landon
The Bank of Nova Scotia	Tms/its Sett A/C for HFF I LLC
The DFA Investment Trust Company	Tracy Leach
The Dorothy Cahn Trust Uad 07/03/1981	Traits Omni
The Dreyfus/Laurel Funds Inc	Transit Employees Retirement
The Northern Trust Company	Tre Pension Eft ACCT PPS
The Spurgeon Family Limited	Tweedy, Browne Value Fund
The Sumitomo Trust & Banking Co., Ltd., as Trustee for Pension Commingle Fund	U.S. Trust Company of Delaware
The Vanguard Group Inc.	UBS Financial Services, Inc.
The Vanguard Group, Inc.	UBS Global Asset Management (Americas) Inc.
	UBS Global Asset Management (Us) Inc.
	UBS Securities LLC
	Ultra Select LP
	UMB Bank, N.A.
	UMC Benefit Board, Inc
	United Food & Commercial Workers
	University of Ca Regents
	USAA Investment Management Company

V Trader Pro LLC	William Blair & Company, L.L.C.
Value Fund, a Series of First Investors Life Series Funds	William F. Warchol
Value Line, Inc	William J Bell TTEE
Vanderbilt Partners, LLC	William - James Bell 1993 TR U/A 8/23/93 (Cash & Holding Account)
Vanguard Financial Group, Inc.	William J Brown
Vanguard Group, Inc.	William Stinehart Jr.
Verna R. Harrah Trust Special Account DTD 9/5/86	Wilmington Trust Company
Wachovia Bank, N.A.	Wirtz Corporation
Ward L. Quaal	
Ward L. Quaal Revocable Trust Dated 09/02/1993	
Water and Power Employees' Ret	
Wedbush Securities, Inc.	
Weintraub Capital Management	
Wells Fargo Bank, N.A.	
Wells Fargo Investment, LLC	
WG Trading Co LP	
White Mountains Reinsurance Company	
Will K. Weinstein Revocable Trust U/A DTD 2-27-90	
William A. Osborn	
William A. Osborn 2004 Trust dated 9/9/2004	