

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF QUEENS

DONAL COGDELL JR., on behalf of himself and all
others similarly situated,

Plaintiff,

-v-

LEFFERTS, LLC

Defendant.

Index. No.: 702197/2020

This stipulation and agreement of settlement is submitted pursuant to CPLR 908 in furtherance of the settlement of the above-captioned action.¹ Subject to the approval of the Court, the Settlement is entered into by Plaintiff Donal Cogdell Jr., (“Plaintiff”) on behalf of himself and the Class, and Defendant Lefferts, LLC (“Defendant”) by and through their respective counsel.

The Settlement is intended by Plaintiff and Defendant to fully and finally compromise, resolve, discharge and settle the Action subject to the terms and conditions set forth below and the final approval of the Court.

WHEREAS, on February 7, 2020, Plaintiff filed a putative class action Complaint challenging the rent stabilization status of the apartments at the Buildings;

WHEREAS, Defendant Lefferts LLC is the owner of the Building;

WHEREAS, the Complaint alleged that the Building received certain tax abatements and/or exemptions pursuant to the J-51 Program;

WHEREAS, the Complaint alleged that tenants did not receive rent-stabilized leases;

¹ Capitalized terms shall have the meanings ascribed to them below. Except as otherwise set forth herein, all defined terms used in this Stipulation shall include the singular and plural form of the term defined.

WHEREAS, the Complaint alleged that tenants were charged rents in excess of the legal rent in violation of the Rent Stabilization Code and Rent Stabilization Laws;

WHEREAS, to avoid the costs, distractions and uncertainties of litigation, Plaintiff and Defendant have agreed to the resolution of the Action pursuant to the terms and conditions set forth below that shall be presented to the Court for final approval pursuant to CPLR 908 after notice to the Class; and

WHEREAS, on the basis of information available to them, including publicly available information, documentation made available by Defendant, Lead Counsel and the Plaintiff have determined that the Settlement described herein is fair, reasonable, adequate, and in the best interests of the Plaintiff and the Class.

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the undersigned counsel for the parties:

DEFINITIONS

- (a) “J-51 Program” means the New York City tax abatement program under the RPTL that was the subject of the Complaint.
- (b) “J-51 Rider” means the notice accompanying a lease or lease renewal pursuant to RSL § 26-504(c).
- (c) “Action” means the class action lawsuit titled *Cogdell v Lefferts, LLC*, Index No. 702197/2020.
- (d) “Appeal” means an appeal or other judicial review seeking to modify or reverse an order or judgment by any person or entity with standing to do so including, without limitation, any petition or motion including petitions for rehearing or reargument, petitions for rehearing en banc, petitions for leave to appeal and/or actual appeal, and petitions for certiorari or any other form of review by a court of competent jurisdiction.
- (e) “Attorney’s Fees and Expenses Award” means the amounts awarded to Class Counsel as compensation for its fees and expenses incurred in connection with investigating, prosecuting, and settling the Action as provided for in paragraph 19. The Attorney’s Fees and Expenses Award shall be paid exclusively from the Settlement Amount, as described in paragraph 19.
- (f) “Bar Date” shall have the meaning ascribed in paragraph 23.
- (g) “Building” means, the residential building located at 120-32 83rd Avenue, Queens, New York 11415.
- (h) “Cash Settlement Account” means an Escrow Account, established by Lead Counsel, maintained by Lead Counsel, into which the Cash Settlement shall be paid.
- (i) “Claim Form” means the document Class Members shall use to file a Past Rent Claim, a proposed draft of which appears as Exhibit A hereto.
- (j) “Class” shall mean all tenants at the Building living, or who had lived, in apartments that were deregulated during the period when J-51 tax benefits were being received by the owner of the Building, except that the class shall not include: (i) any tenants who vacated such apartment prior to June 14, 2015; or (ii) any tenants whose occupancy in such apartment commenced after such J-51 tax benefits to the building ended.
- (k) “Class Members” are individuals who are encompassed within the class definition.
- (l) “Class Representative Incentive Award” shall have the meaning ascribed in paragraph 20

- (m) “Complaint” means the class action complaint dated February 7, 2020, filed by the Plaintiff in this Action.
- (n) “Court” means the New York State Supreme Court, County of the Bronx.
- (o) “Defendant,” and Landlord” shall mean Lefferts, LLC.
- (p) “Default Formula Rent” means the lowest rent derived from performing the calculations found at RSC § 2522.6(b)(3).
- (q) “DHCR” means the New York State Division of Housing and Community Renewal.
- (r) “Effective Date” means the earliest date that the Order and Final Judgment shall Become Effective. The Order and Final Judgment shall “Become Effective” on the first day following the last of the following occurrences: (a) the last date to file an Appeal or seek permission to Appeal has expired with no Appeal having been taken or sought; or (b) if any Appeal is taken or sought, the date a remittitur or order is entered by a court: (i) affirming the Order and Final Judgment or denying or dismissing any Appeal from the Order and Final Judgment, and any Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; (ii) reversing or modifying the Order and Final Judgment in any non-material respect and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally denied or dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; and (iii) reversing or modifying the Order and Final Judgment in a material respect provided Plaintiff and Defendant agree in writing to remain bound to the Settlement as reversed or modified and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom. For purposes of this definition, a reversal or modification shall be deemed “material” if it materially affects any term of this Stipulation.
- (s) “Eligible Class Member” shall have the meaning ascribed in paragraph 7.
- (t) “Enactment” shall have the meaning ascribed in paragraph 26.
- (u) “Lead Counsel” means the law firm of Newman Ferrara LLP.
- (v) “Legal Regulated Rent” shall have the meaning ascribed in paragraph 1.
- (w) “Net Cash Settlement Amount” means the Settlement Amount, less Attorney’s Fees and Expense Award, and the Class Representative Incentive Award.
- (x) “Notice” means the notice of the terms of this Stipulation to be given to the Class following Preliminary Approval as described in paragraph 27.

- (y) “Non-Payment Deductions” shall have the meaning ascribed in paragraph 11.
- (z) “Opt-Out” shall have the meaning ascribed in paragraph 23.
- (aa) “Order and Final Judgment” means the order to be signed by the Court granting final approval of the Settlement, a proposed draft of which appears as Exhibit C hereto.
- (bb) “Order and Final Judgment Date” means the date the Order and Final Judgment is entered, via Notice of Entry, in the Queens County Clerk’s Office.
- (cc) “Past Overcharge Amount” shall have the meaning ascribed in paragraph 2.
- (dd) “Plaintiff” means Donal Cogdell Jr.
- (ee) “Preliminary Approval” shall have the meaning ascribed in paragraph 21.
- (ff) “Preliminary Approval Date” means the date the Preliminary Approval Order is entered, via Notice of Entry, in the Queens County Clerk’s office.
- (gg) “Preliminary Approval Order” means the order to be signed by the Court granting Preliminary Approval, a proposed draft of which appears as Exhibit B hereto.
- (hh) “Legal Regulated Rent” means the agreed upon sum set forth in the lease or otherwise paid for use of the Unit, and does not include utility charges, late fees amenity fees and other ancillary fees.
- (ii) “Rent Guidelines Board Increases” or “RGB Increases” shall have the meaning ascribed to it under the RSC and RSL.
- (jj) “Releasing Class Members” shall have the meaning ascribed in paragraph 30.
- (kk) “Released Defendant” shall have the meaning ascribed in paragraph 29.
- (ll) “RSC” means the New York City Rent Stabilization Code as amended.
- (mm) “RSL” means the New York City Rent Stabilization Law as amended.
- (nn) “Settlement” means the settlement of this Action pursuant to the terms and conditions of this Stipulation and the orders implementing same.
- (oo) “Settlement Amount” shall have the meaning ascribed in paragraph 9.
- (pp) “Settlement Distribution” shall have the meaning ascribed in paragraph 7.
- (qq) “Settlement Hearing” means the judicial hearing, on a date to be set by the Court, at which the Court will consider all arguments concerning whether the Settlement should be finally approved.

- (rr) “Settled Plaintiff’s Claims” shall have the meaning ascribed in paragraph 31.
- (ss) “Settled Rent” shall have the meaning ascribed in paragraph 4.
- (tt) “Stipulation” means this Stipulation and Agreement of Settlement together with the Exhibits attached hereto.
- (uu) “Tenant” shall mean the individual(s) named in the lease for the Unit.
- (vv) “Units” and “Unit” shall mean, in the plural, all apartments in the Buildings, and in the singular any Unit in the Buildings.

SETTLEMENT CONSIDERATION

1. Following arm’s length negotiations, the Plaintiff, through this Agreement, wishes to settle the Action in exchange for payment by Defendant of the Past Overcharge Amounts, and establishing the Settled Rent as the Legal Regulated Rent, to be registered with DHCR, for each Eligible Class Members’ apartment.

2. The amounts of the Past Overcharge Amounts for the Class Members shall be calculated by subtracting the Default Formula Rent from the rent paid by the class member on a monthly basis, beginning on June 14, 2015 and adding interest to that amount, at the statutory interest amount 9% per annum calculated on a month-by-month basis.

3. The Default Formula Rent, for each unit that was or is occupied by a class member, is as follows:

- 1A (Padilla/Barreto): \$923.61
- 1A (Sheikh): \$1,333.33
- 1B (Maniscalco/Yakovieva): \$858.89
- 1F (Tahirovic): \$825.64
- 1J (Lloyd): \$1,583.33
- 1L (Basile): \$1,291.67
- 2A (Weintraub/Mazza): \$821.90

- 2A (Piccininni/Pryor): \$1,333.33
- 2B (Torchon/Soto): \$736.90
- 2B (Witkin/Stonaker): \$1,375.00
- 2C (Palacios): \$731.23
- 2C (Monsees): \$787.90
- 2C (Poffenbarger): \$803.66
- 2D (Genao): \$898.89
- 2D (Cogdell): \$1,250.00
- 2F (Szczepkowski): \$613.55
- 2H (Tostado): \$1,583.33
- 2I (Stingone): \$1,750.00
- 2K (Garcia): \$923.61
- 2L (Li): \$898.89
- 3A (Alesi/Hall): \$858.89
- 3A (Paserk/Avelar): \$1,270.83
- 3B (Lepinasse): \$821.90
- 3C (Burns): \$787.90
- 3C (Velasquez): \$803.66
- 3D (Yilmaz): \$898.893D
- 3D (Groover/Bird): \$1,333.33
- 3E (Rhodes-McCoy): \$621.80
- 3E (De Lima): \$803.66

- 3H (Mejia): \$825.64

4. The Settled Rent: The Settled Rent will be derived by adding together 50% of the Default Formula Rent, and 50% of the non-discounted rent listed in the Class Members' leases effective on June 2015, or the tenant's first lease, whichever is later, and adding to the resulting figure all Rent Guidelines Board ("RGB") renewal increases, in accordance with whether the tenant selected a one- or two-year renewal lease option.

5. The Settled Rent for the base date, or, where applicable, the tenant's first lease if not the tenant on the base date for each unit, is as follows. The below does not include RGB renewal increases calculated to date for the current tenant:

- 1A (Padilla/Barreto): \$1,199.31
- 1A (Sheikh): \$1,404.17
- 1B (Maniscalco/Yakovieva): \$1,154.45
- 1F (Tahirovic): \$1,237.82
- 1J (Lloyd): \$1,741.67
- 1L (Basile): \$1,420.84
- 2A (Weintraub/Mazza): \$1,123.45
- 2A (Piccininni/Pryor): \$1,379.17
- 2B (Torchon/Soto): \$1,093.45
- 2B (Witkin/Stonaker): \$1,412.50
- 2C (Palacios): \$1,015.62
- 2C (Monsees): \$1,043.95
- 2C (Poffenbarger): \$1,114.33

- 2D (Genao): \$1,149.45
- 2D (Cogdell): \$1,149.45
- 2F (Szczepkowski): \$1,019.28
- 2H (Tostado): \$1,741.67
- 2I (Stingone): \$1,937.50
- 2K (Garcia): \$1,211.81
- 2L (Li): \$1,149.45
- 3A (Alesi/Hall): \$1,116.95
- 3A (Paserk/Avelar): \$1,322.92
- 3B (Lepinasse): \$1,135.95
- 3C (Burns): \$1,043.95
- 3C (Velasquez): \$1,051.83
- 3D (Yilmaz): \$1,136.95
- 3D (Groover/Bird): \$1,354.17
- 3E (Rhodes-McCoy): \$860.90
- 3E (De Lima): \$951.83
- 3H (Mejia): \$1,250.32

6. The Settled Rent and Past Overcharge Amounts shall not include any amount based on any claim or calculation of treble damages, any other punitive damages, fines or interest (other than 9% simple interest referenced in paragraph 3). All claims for treble damages, punitive damages, fines and interest (other than 9% simple interest referenced in paragraph 3) under the RSL, RSC or any other provision of law are hereby waived and released, except as to Opt-Outs.

7. Each Class Member, who has timely and properly filed a Claim Form, and who has not elected to Opt-Out is an “Eligible Class Member.” Each Eligible Class Member who has a Past Overcharge Amount will receive a disbursement from Defendant in amount of such Eligible Class Member’s Past Overcharge Amount (“Settlement Distributions”) pursuant to paragraphs 10-12 below.

8. To receive payment for Past Overcharge Amounts, Class Members shall file claims for Settlement Distributions pursuant to the procedures set forth in the Claim Form annexed hereto as Exhibit A. For identity verification purposes, all Claim Forms shall require Class Members to provide the month and year when their lease(s) commenced and terminated (if applicable) and the addresses of such Class Member’s leased Unit(s). Class Members who do not timely file a Claim Form pursuant to these procedures shall be deemed to have waived and released their Past Overcharge Amount unless he, she or it becomes an Opt-Out. Determinations as to whether a Claim Form has been timely and properly filed shall be made by Plaintiff’s counsel. Prior to any such determination, Plaintiff’s counsel shall consult with Defendant’s counsel. In the event counsel disagree, each party reserves the right to seek a judicial determination.”

9. Defendant shall pay or cause to be paid into the Cash Settlement Account a total of \$1,150,000.00 pursuant to the terms of the Settlement (the “Settlement Amount”).

10. Each Eligible Class Member who has a Past Overcharge Amount will receive a disbursement from the Cash Settlement Account, in the amount of such Eligible Class Member’s Past Overcharge Amount.

11. The Past Overcharge Amount shall be reduced by any non-payment of rent by the Eligible Class Member (the “Non-Payment Deductions”), as recalculated based upon the Settled

Rent in effect on the date of non-payment, through the Order and Final Judgment Date. If the eligible class member failed to tender the rent charged, the Settled Rent in effect on that date shall be used to determine the Non-Payment Deduction for those months.

12. If the total Past Overcharge Amount for all Eligible Class Members exceeds the Net Cash Settlement Amount, then the Past Overcharge Amount will be paid based on the pro rata share that each Eligible Class Member's Past Overcharge Amount bears to the total Net Cash Settlement Amount.

13. If the total Past Overcharge Amount for all Eligible Class Members does not exceed the Net Cash Settlement Amount, any balance remaining in the Cash Settlement Account shall be paid back to Defendant.

14. Beginning in the first full month following the entry of the Preliminary Approval Order, rent shall accrue at the Settled Rent.

PAYMENTS FOLLOWING THE JUDGMENT

15. Within ten (10) days after the Order and Final Judgment Date, Defendant shall wire transfer into the Cash Settlement Account the Settlement Amount.

REGULATED STATUS AND RENT

16. On or before December 1, 2021, Defendant shall provide each class member who remains in occupancy of their unit, with a superseding lease, in the form complying with the rent-regulations.

17. Said lease renewal may include the 2021-2022 applicable RGB increases for one- and two-year leases, added to the Settled Rent.

18. Each class member who remains in occupancy of their unit, shall be regarded as rent-stabilized, and treated as such.

ATTORNEY'S FEES

19. Lead Counsel may apply to the Court, unopposed by Defendant, for a fee award of up to 33.25% of the Settlement Amount, plus out of pocket expenses (the "Attorney's Fees and Expenses Award"), to be paid from the Settlement Amount.

20. Plaintiff may apply, unopposed by Defendant, to the Court for approval of an incentive award (the "Class Representative Incentive Award") in the amount of \$7,500.00. The Class Representative Incentive Award shall be deducted from the Settlement Amount.

SUBMISSION FOR APPROVAL

21. Promptly after execution of this Stipulation, Plaintiff, with Defendant's consent, shall submit this Stipulation with its exhibits to the Court for preliminary approval of this Stipulation of Settlement ("Preliminary Approval") and shall seek entry of the Preliminary Approval Order. Among other matters, the Preliminary Approval Order shall provide for: (a) the preliminary approval of this Stipulation and the declaratory relief sought herein as being fair, just, reasonable and adequate to the Class; (b) the approval of the Notice; (c) the approval of a procedure for the filing of objections, if any; (d) the setting of a date for the Court to hold the Settlement Hearing; and (e) a stay of the proceedings in this Action in accordance with paragraphs 39-41 below. The Preliminary Approval Order shall have as an exhibit a schedule identifying all of the Units.

22. At or prior to the Settlement Hearing, Plaintiff, with Defendant's consent, shall request that the Court enter the Order and Final Judgment. The Settlement shall be considered final on the Effective Date.

REQUESTS FOR EXCLUSION

23. Each Class Member will be bound by all provisions of the Stipulation and the Settlement, whether favorable or unfavorable, unless such person mails, by first class mail, a written request for exclusion from the Class, postmarked no later than December 1, 2021 (the “Bar Date”), addressed to Plaintiff’s counsel. No Class Member may exclude himself, herself or itself from the Class after the Bar Date. In order to be valid, each request for exclusion must: (a) set forth the name and address of the Class Member requesting exclusion (the “Opt-Out”); (b) provide that such Class Member “requests exclusion from the Class in *Cogdell v Lefferts, LLC*” Index No.702197/2020; (c) be signed by such Class Member; and (d) include the addresses of all of such Class Member’s leased Unit(s). Requests for exclusion will not be accepted if they do not include the required information or if they are not made within the time stated above, unless they are otherwise accepted by the Court.

24. Opt-Outs will not receive any Settlement Distributions, nor any final determination as to their Settled Rent. In any subsequent proceeding, Opt-Outs may make any claim or argument as to their Past Overcharge Amount and/or the amount of their Legal Regulated Rent, and Defendant may raise any defenses available to them whether at law, equity or pursuant to the Order and Final Judgment.

25. Defendant shall have the right to terminate the Settlement if either: (a) 20% or more of the Class Members opt-out of the Settlement; or (b) the aggregate dollar amount that Class Members who opt-out of the Settlement would have received under the Settled Rent (had they not opted out) exceeds 20% of the amount paid by Defendant into the Settlement Amount.

SAVINGS CLAUSE

26. No subsequent legislation enacted by New York State, regardless of whether it modifies the terms or interpretation of the RSL or RSC or any other law, code or regulation, that would affect the remedies available to tenants who rented Units at the Buildings (an “Enactment”), shall modify or override the terms of the Settlement, unless such law applies retroactively.

NOTICE

27. The Notice shall be provided to the Class by a mailing in substantially the form attached hereto as Exhibit D to all Class Members for whom an address or possible address is known. Lead Counsel shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to the preparation, mailing and publication of the Notice.

RELEASES

28. The Order and Final Judgment shall, among other things, provide for the full and complete dismissal of the Complaint with prejudice.

29. “Released Defendant” means: Defendant and all of its present and former lenders, investors, affiliates, subsidiaries and parent companies, including without limitation, limited liability companies, partnerships and corporations (including those that are minority-owned), and their respective officers, attorneys, members, principals, shareholders, heirs, executors, administrators, directors, managers, partners, employees, agents, consultants, advisors, or representatives, and the successors and assigns of each of the foregoing, including without limitation, any future owner of the Buildings, with respect to the Settled Plaintiff’s Claims (collectively, the “Released Defendant”).

30. “Releasing Class Members” means each Class Member who does not timely and properly opt out of the Settlement, each Plaintiff, and the heirs, successors, trustees, executors, administrators and assigns of each of them.

31. “Settled Plaintiff’s Claims” means all statutory, regulatory, common law or other claims, causes of action, suits, administrative proceedings, arbitrations, liabilities, obligations, expenses, costs, penalties, damages, demands, and/or any other remedies of any nature whatsoever, whether asserted or unasserted, and whether known or unknown, under federal, state, local or any other law, whether legal, equitable or otherwise (including, without limitation, claims arising from or related to alleged misrepresentation or nondisclosure, whether intentional or otherwise), arising at any time on or before the Order and Final Judgment Date, that are based upon or related to, or arise out of, in whole or in part, the facts, transactions, events, occurrences, acts, or failures to act that were or could have been alleged in the Action by any Plaintiff or Class Member against the Defendant, including without limitation, damages, penalties, punitive damages, treble damages, liabilities or other remedies relating to (a) residential rents at the Building, (b) the rent-regulated status of any Unit at the Buildings, and/or (c) any other claims arising under the RSL or RSC based on any act, event or alleged failure to act prior to the Order and Final Judgment Date, including but not limited to any claim that a tenant was entitled to any particular form of lease, notice, or that the Buildings had to be registered with any governmental agency.

32. Subject to the Court’s approval of this Stipulation and entry of the Order and Final Judgment, as of the Effective Date: (a) each Releasing Class Member hereby forever waives, releases, and discharges the Settled Plaintiff’s Claims against each of the Released Defendant even if such Releasing Class Member failed to submit a Notice of Claim Form; (b)

each Releasing Class Member shall thereafter be permanently enjoined from commencing, prosecuting, or continuing any of the Settled Plaintiff's Claims against any of the Released Defendant even if such Releasing Class Member failed to submit a Notice of Claim Form.

RESERVATION OF RIGHTS

33. Except as expressly set forth herein, if the Court fails to grant preliminary or final approval of the Settlement or the Settlement is terminated or does not become effective for any reason, then all parties' positions shall return to the status quo ante as if the Settlement never existed, and each party preserves, reserves and does not waive any and all of its respective rights, claims, defenses and remedies.

CONDITIONS OF SETTLEMENT

34. Lead Plaintiff and Lead Counsel believe that the Settlement is fair, reasonable, adequate and in the best interests of the Plaintiff and the Class. Lead Plaintiff and Lead Counsel also took into consideration the strengths and weaknesses of the Class' claims and defenses and determined that the terms of the proposed Settlement are fair, reasonable and adequate, and in the best interest of the Class.

35. This Settlement is conditioned upon the fulfillment of each of the following:
- a. The Court approving the Settlement and entry of the Order and Final Judgment, and such approval and Order and Final Judgment having been affirmed on Appeal and/or no longer being subject to Appeal;
 - b. The dismissal with prejudice of this Action without the award of any damages, costs, fees, or the grant of any further relief except as provided in this Stipulation;
- and

- c. The occurrence of the Effective Date without any material change (unless agreed to in writing by all parties) to the terms of the proposed Preliminary Approval Order, Order and Final Judgment and/or this Stipulation.

36. If any of the conditions in paragraph 35 above does not occur for any reason, then any party may terminate this Stipulation by giving ten (10) days notice to the other parties, in which event: (a) the Stipulation and any related orders shall be null and void and of no further force or effect; (b) certification of the Class as set forth in this Stipulation shall be null and void and automatically set aside; (c) the parties shall revert and be restored to the positions they were in immediately prior to execution of the Stipulation; (d) no statements, agreements or acknowledgements (whether written or oral) made or exchanged in connection with the Stipulation shall be deemed an admission or concession by any party and shall not be admissible for any purpose; (e) the Stipulation shall not be introduced as evidence or referred to in any action or proceeding other than an action or proceeding to enforce the terms thereof; and (f) all Settlement Distributions, if any, will be returned to Defendant.

BEST EFFORTS

37. Plaintiff and Defendant agree to cooperate fully with one another in seeking the Court's approval of this Stipulation and the Settlement, and to use their best efforts to effect, take, or cause to be taken all actions, and to do, or cause to be done, all things reasonably necessary, proper, or advisable under applicable laws, regulations, and agreements to consummate and make effective, as promptly as practicable, this Stipulation and the Settlement provided for hereunder (including, but not limited to, using their best efforts to resolve any objections raised to the Stipulation and/or the Settlement) and the dismissal of the Action with

prejudice and without costs, fees or expenses to any party except as otherwise provided for in this Stipulation.

38. Without further order of the Court, Plaintiff and Defendant may agree to reasonable extensions of time not expressly set forth by the Court in order to carry out any provisions of this Stipulation.

STAY OF PROCEEDINGS

39. Until the Effective Date, Plaintiff and Defendant agree to stay this proceeding. Prior to the Effective Date, Plaintiff and Defendant reserve all of their respective rights with regard to any pending motions. Plaintiff on behalf of themselves and the Class Members will fully cooperate with Defendant to adjourn, mark off-calendar or take any or all other reasonable actions requested by Defendant to preserve both parties' rights with regard to any pending motions.

40. The Preliminary Approval Order shall provide that pending final determination of whether the Settlement should be approved, Plaintiff and all Class Members are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against Defendant or any of the parties released in this Stipulation.

41. Pending the entry of the Preliminary Approval Order and the Effective Date, Defendant are not stayed from taking any actions relating to the leasing or management of the Buildings or enforcement of the terms of leases for Units including, but not limited to, increasing rents for renewal leases, or new vacancy leases, in a manner not inconsistent with the terms of this Stipulation, applicable law, or the current leases in effect.

REPRESENTATIONS AND WARRANTIES

42. Defendant represents and warrants that it is the owners of the Buildings.

43. Defendant represents and warrants that it has full authority to enter into this Stipulation, and have authorized their counsel to do so.

44. Lead Plaintiff represents and warrants that he has full authority to enter into this Stipulation, and has authorized Lead Counsel to do so.

45. All Class Members who seek reimbursement for Past Overcharge Amounts and payment from the Settlement Distributions shall in their Claim Forms represent and warrant that they are entitled to such reimbursement and have not assigned, pledged, transferred, or lost through bankruptcy, divorce proceeding or any other operation of law the right to the full reimbursement sought.

STIPULATION NOT AN ADMISSION

46. The provisions contained in this Stipulation shall not be deemed a presumption, concession, or an admission by Defendant of any fault, liability, or wrongdoing as to any facts or claims alleged or asserted in the Action, or any other action or proceeding, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, except for any litigation or judicial proceeding arising out of or relating to the enforcement of this Stipulation or the Settlement.

MISTAKE

47. Except as otherwise set forth herein, in entering into the Settlement, Plaintiff, the Class, and Defendant assume the risk of any mistake of fact or law, and if any of them should later discover that any fact they relied upon in entering into the Settlement is not true, or that

their understanding of the facts or law was incorrect, in such event such party shall not be entitled to seek rescission of the Settlement, or otherwise attack the validity of the Settlement, based on any such mistake. Except as otherwise set forth herein, the Settlement is intended to be final and binding upon the parties regardless of any mistake of fact or law.

RETENTION OF JURISDICTION

48. The Court shall retain jurisdiction for purpose of entering orders to: (a) effectuate the implementation of the Settlement; (b) enforce the terms of this Stipulation including, but not limited to, the releases provided herein; (c) hear all claims, defenses and counterclaims relating to the interpretation and enforcement of this Stipulation before and after the Effective Date as the Court deems appropriate; (d) review all challenges to final administrative determinations brought by Opt-Outs; and (e) determine all other matters relevant to this Stipulation

ENTIRE AGREEMENT

49. This Stipulation and the Exhibits attached thereto, constitute the entire agreement between the parties hereto concerning the subject matter hereof, and all understandings and agreements heretofore or simultaneously had between the parties are merged in and are contained in the Stipulation and the Exhibits attached thereto. Each of the parties warrants and represents to the others that it has not relied upon any representations or warranties, express or implied, in entering into this Stipulation except those which are expressly set forth in this Stipulation and the Exhibits attached thereto.

GOVERNING LAW

50. This Stipulation and the Settlement contemplated by it shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to New York's

conflict of law rules, as said laws exist on the execution of this Stipulation, subject to the limited exceptions described above.

NOTICES

51. Unless otherwise set forth in this Stipulation, any notice permitted or required to be given under this Stipulation from one party to another shall be given in writing by (a) personal delivery, or (b) a nationally recognized overnight courier (and in each case also by electronic mail), sent to the intended addressee(s) at the addresses set forth below, or to such other address(es) or to the attention of such other person(s) as the addressee(s) shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given upon receipt or refusal to accept delivery. The addresses for giving notice from one party to another pursuant to this Stipulation shall be as follows:

If to Plaintiff: Newman Ferrara LLP
1250 Broadway, 27th Floor
New York, NY 10001
Attn: Roger Sachar (rsachar@nflfp.com)

If to Defendant: Horing Welikson Rosen & Digrugilliers PC
11 Hillside Avenue
Williston Park, NY 11596
Attn: Randi Gilbert, Esq. (rgilbert@hwrpc.com) or
Attn: Jillian N. Bittner, Esq. (jbittner@hwrpc.com)

HEADINGS

52. The headings in this Stipulation are used for the purpose of convenience only and are not meant to have legal effect.

SEVERABILITY

53. Unless otherwise set forth in this Stipulation, if any provision of this Stipulation is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of

this Stipulation shall nonetheless remain in full force and effect; provided that the invalidity or unenforceability of such provision does not materially adversely affect the benefits accruing to any other party hereunder.

THIRD-PARTY BENEFICIARIES

54. There are no third-party beneficiaries under this Stipulation.

EFFECT OF WAIVER OF BREACH

55. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation. Unless otherwise stated in this Stipulation, any breach of any provision of this Stipulation by any party to this Stipulation shall not constitute grounds for rescission of this Stipulation, but shall constitute grounds only for a claim for specific performance for breach of this Stipulation.

CONFIDENTIALITY

56. Unless otherwise agreed to by Plaintiff and Defendant, no party or their counsel shall disclose the terms of this Stipulation until it is executed and filed with the Court.

SUCCESSORS AND ASSIGNS

57. This Stipulation, and all rights and powers granted hereby, shall be binding upon and inure to the benefit of the parties and their respective agents, executors, heirs, successors, affiliates and assigns. All rights and obligations of Defendant shall be binding on and inure to the benefit of any subsequent owners of the Building.

NO TAX ADVICE

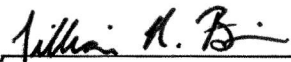
58. Each Party expressly acknowledges that the other Parties, or the other Parties' counsel, have not provided him, her or it with any tax advice with respect to this Stipulation, and that no Party or their counsel is obligated to provide any tax advice to any other Party.

COUNTERPARTS

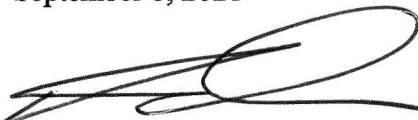
59. This Stipulation may be executed in multiple counterparts by any of the signatories hereto, including by facsimile or by e-mail, and as so executed shall constitute one agreement, and photocopy or scanned PDF signatures shall be deemed originals for all purposes.

Dated: New York, New York
September 8, 2021

Dated: New York, New York
September 8, 2021

By:  _____
Randi B. Gilbert
Jillian N. Bittner
HORING WELIKSON ROSEN &
DIGRUGILLIERS PC
11 Hillside Avenue
Williston Park, New York 11596

Attorneys for Defendant

By:  _____
Lucas A. Ferrara
Roger A. Sachar Jr.
NEWMAN FERRARA LLP
1250 Broadway, 27th Floor
New York, NY 10001
Tel: (212) 619-5400

*Attorneys for Plaintiff and Lead Counsel
for the Class*

EXHIBIT A

120-32 83rd Avenue Class Action Claim Form

I (we) do hereby swear (or affirm) under penalties of perjury, that the information listed above is true and accurate to the best of my (our) knowledge, that I am (we are) entitled to file this Claim Form and receive any cash payments that may be owed as to the above leases under the Settlement of this Action, and that this Claim Form was executed by me (us) at the place(s) and date(s) noted above.

_____, _____ _____ _____
City State Date Signature of Tenant Claimant

Print Your Name

_____, _____ _____ _____
City State Date Signature of Co-Tenant Claimant (if any)

Print Your Name

If signed by an authorized Legal Representative of a Claimant or Co-Tenant Claimant:

_____, _____ _____ _____
City State Date Signature of Person Signing for Claimant

Print Your Name

Capacity of Person signing for Claimant
(e.g., Executor, Administrator, President, etc.)

REMINDER: YOU MUST SIGN THIS FORM AND MAIL IT POSTMARKED ON OR BEFORE DECEMBER 1, 2021 TO LEAD COUNSEL AT NEWMAN FERRARA LLP AT 1250 BROADWAY, 27TH FLOOR, NEW YORK, NEW YORK 10001. FAILURE TO DO SO BY THAT DATE WILL RESULT IN FORFEITURE OF ANY CASH PAYMENT TO WHICH YOU MIGHT OTHERWISE BE ENTITLED

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

DONAL COGDELL JR., *et al.*, on behalf of
himself and all others similarly situated,

Plaintiff,

- against -

LEFFERTS, LLC

Defendant.

Index No.: 702197/2020

**[Proposed] Order for Preliminary
Approval of Class Action Settlement**

Lead Plaintiff Donal Cogdell Jr. (“Plaintiff”) on behalf of himself and the Class, by and through their counsel, and Defendant Lefferts, LLC (“Defendant” and together with Lead Plaintiff, the “Parties”) having applied pursuant to New York Civil Practice Law and Rules (“CPLR”) Rules 907 and 908 for: (a) an order preliminarily approving the proposed settlement (the “Settlement”) of this action (the “Action”); (b) determination of certain matters in connection with the proposed Settlement; and (c) for dismissal, with prejudice, of the putative class action complaint dated February 7, 2020, filed by Plaintiff in this Action (the “Complaint”), in accordance with the terms and conditions of the Stipulation and Agreement of Settlement entered into by the Parties dated September 8, 2021 (the “Stipulation”); and

The Court¹ having read and considered the Stipulation and accompanying affirmations and exhibits, and the Parties having consented to the entry of this Preliminary Approval Order,

IT IS HEREBY ORDERED THAT:

1. The Court preliminarily approves the Stipulation and the declaratory relief set forth therein as being fair, reasonable, adequate, consistent with the RSL and RSC and in the best interests of the Class, subject to final determination at the Settlement Hearing.

2. The Settlement Hearing shall be held on the ___ day of _____ in the year ____ at ___ .m., in the Supreme Court of the State of New York, County of Queens, Part 23, 25-10 Court Street, Long Island City, New York 11435, to:

- a. determine whether the Settlement should be finally approved by the Court as fair, reasonable, adequate and in the best interests of the Class;
 - b. determine whether an Order and Final Judgment should be entered pursuant to the Stipulation in the form attached as Exhibit C to the Stipulation;
 - c. consider Plaintiff's application for an award of attorneys' fees and expenses and for the Class Representative Incentive Award; and
 - d. rule on such other matters as the Court may deem appropriate.
3. The Court reserves the right to adjourn the Settlement Hearing, including, without limitation, the consideration of the application for attorneys' fees.
4. The Court reserves the right to approve the Settlement at or after the Settlement Hearing with such modification(s) as may be consented to by the Parties without further notice to the Class.

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Stipulation.

5. Within twenty (20) business days after the date of entry of this Order, the Lead Counsel shall cause a notice of the Settlement Hearing in substantially the form annexed as to the Stipulation (the “Notice”) to be mailed to all Class Members. To the extent such information is known and reasonably available as of the date of this Order, Defendant shall supply to Plaintiff, in a confidential manner, each Class Member’s current or last known residential address, and current or last known email address, (to facilitate locating and providing the Notice to former tenant Class Members who may have changed residences multiple times and to representatives of Class Members who may be incapacitated or deceased), which information the Lead Counsel shall destroy after all of its duties under this Stipulation are fulfilled. Lead Counsel shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to the preparation, mailing and publication of the Notice.

6. The form and method of notice herein is the best notice practicable and constitutes due and sufficient notice of the Settlement Hearing to all persons entitled to receive such a notice.

7. All proceedings in the Action, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement are hereby stayed and suspended until further order of the Court. Pending final determination of whether the Settlement should be approved, Plaintiff, and all Class Members, are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in the Action, either directly, representatively, derivatively, or in any other capacity, against Defendant or any of the parties released in the Stipulation.

8. Any Class Member who objects to the Settlement, the Order and Final Judgment to be entered in the Action, and/or Lead Counsel’s application for attorneys’ fees, or who

otherwise wishes to be heard, may appear in person or by such Class Member's attorney at the Settlement Hearing and present evidence or argument that may be proper and relevant; provided, however, that, except for good cause shown, no person shall be heard and no papers, briefs, pleadings or other documents submitted by any person shall be considered by the Court unless not later than [DATE] such person files with the Court and serves upon all counsel listed below:

(a) a written notice of intention to appear containing a notarized statement attesting to the fact that such person is a member of the Class, and setting forth the Unit(s) in the Building in which the member resides or resided and the dates of said residence; (b) a detailed statement of such person's specific position with respect to the matters to be considered at the Settlement Hearing and the grounds therefore; and (c) copies of any papers such person intends the Court to consider. Such filings shall be served by first class mail upon the following counsel:

Roger A. Sachar Jr.
NEWMAN FERRARA LLP
1250 Broadway, 27th Floor
New York, NY 10001
Tel: (212) 619-5400
rsachar@nflp.com

Attorneys for Plaintiff

Randi Gilbert, Esq.
Jillian Bittner Esq.
**HORING WELIKSON ROSEN &
DIGRUGILLIERS, PC**
11 Hillside Avenue
Williston Park, NY 11596
rgilbert@hwrpc.com
jbittner@hwrpc.com

Attorneys for Defendant

and then filed with the Clerk of the Supreme Court of the State of New York, County of Queens.

9. Unless the Court otherwise directs, no person shall be entitled to object to the approval of the Settlement, any judgment entered thereon, the adequacy of the representation of the Class by Plaintiff and Lead Counsel, any award of attorneys' fees, or otherwise be heard, except by serving and filing a written objection and supporting papers and documents as described above. Any person so objecting shall submit themselves to the personal jurisdiction of this Court for discovery purposes pursuant to the CPLR upon three days' written notice,

including, without limitation, submitting to a sworn deposition at a place to be determined by Lead Counsel, interrogatories and other written questions, and requests for production of documents, regarding the objector's standing to object and the basis for such objection. Any person who fails to object in the manner described above shall be deemed to have waived the right to object (including any right of appeal) and shall be forever barred from raising such objection in this or any other action or proceeding.

10. If the Settlement, including any amendment made in accordance with the Stipulation, is not approved by the Court or shall not become effective for any reason whatsoever, the Settlement (including any modification thereof made with the consent of the Parties as provided for in the Stipulation), and any actions taken or to be taken in connection therewith (including this Order and any judgment entered herein) shall be terminated and shall become void and of no further force or effect. In that event, neither the Stipulation, nor any provision contained in the Stipulation, nor any action undertaken pursuant thereto, nor the negotiation thereof by any party shall be deemed an admission or received as evidence in this or any other action or proceeding.

Dated: _____

J. S. C.

EXHIBIT C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

DONAL COGDELL JR., *et al*, on behalf of
himself and all others similarly situated,

Plaintiff,

- against -

LEFFERTS, LLC

Defendant.

Index No.: 702197/2020

**[Proposed] Final Order and Judgment
Approving Class Action Settlement**

WHEREAS:

A. On **[INSERT DATE]**, Plaintiff applied to the Court pursuant to Civil Practice Law and Rules (“CPLR”) Article 9 for an order preliminarily approving the settlement of this litigation (the “Action”) in accordance with the Stipulation and Agreement of Settlement dated **[INSERT DATE]** (the “Stipulation”) that, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of this Action (the “Settlement”) and for a judgment dismissing the Class Action Complaint dated February 7, 2020, filed by the Plaintiff in this Action (the “Complaint”) with prejudice upon the terms and conditions set forth in the Stipulation.

B. In the Preliminary Approval Order of the Settlement of the Class Action, dated **[INSERT DATE]** (the “Preliminary Approval Order”), this Court, among other things: (i) preliminarily approved the Settlement; (ii) scheduled a hearing for **[INSERT DATE]** (the “Settlement Hearing”) to consider whether to approve the Settlement as being fair, reasonable, adequate, and consistent with the New York City Rent Stabilization Law (“RSL”) and New York

City Rent Stabilization Code (“RSC”), to enter final judgment thereon and to consider an award of attorneys’ fees and expenses; and (iii) directed that notice of the pendency of the Action, the proposed Settlement and the Settlement Hearing, substantially in the form annexed as Exhibit [X] to the Stipulation (the “Notice”), be mailed to all Class Members who could be identified with reasonable effort.

C. Lead Counsel has submitted an affidavit attesting that the Notice was disseminated in accordance with the Preliminary Approval Order.

D. Lead Counsel has submitted a list of all Class Members who properly and timely requested exclusion from the Class [a copy of which is attached as Exhibit 1 hereto] [or alternatively: No Class Member has timely requested exclusion from the Class].

E. The Court held a Settlement Hearing on [REDACTED] and has considered all prior proceedings in the Action, the Stipulation and the exhibits annexed thereto, any submissions made in connection with the proposed Settlement and all proceedings during the Settlement Hearing, and no party has terminated the Stipulation in accordance with paragraph 41 thereof.

NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. To the extent not defined herein, this Order and Final Judgment incorporates by reference the definitions in the Stipulation, and all terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

NOTICE

2. The Court hereby determines that the Notice and Summary Notice complied with the requirements of CPLR 904, 907 and 908 and due process and were the best notice practicable under the circumstances and constituted due and sufficient notice to all persons entitled thereto,

including individual notice to all Class Members who could be located through reasonable effort. The Notice and Summary Notice provided due and adequate notice of these proceedings, the Settlement, an award of attorneys' fees and expenses, and the other matters set forth therein, to all persons entitled to such notice.

3. Due and adequate notice of the proceedings having been given to the Class Members, and a full opportunity having been offered to the Class Members to object to the proposed Settlement, to participate in the Settlement Hearing thereon or to request exclusion from the Class, it is hereby determined that all Class Members who have not requested exclusion (except as otherwise set forth in the Stipulation) are bound by this Order and Final Judgment (whether or not any Class Member has objected to the Settlement) and are barred from contesting the Stipulation, Settlement or this Order and Final Judgment.

4. Those persons identified in Exhibit 1 hereto shall be excluded from the Class and any benefits under the Settlement and shall not be bound by the Stipulation except as otherwise set forth therein. [Alternatively: No Class Member has timely requested exclusion from the Class.]

APPROVAL OF THE SETTLEMENT

5. Pursuant to CPLR 907 and 908, the Court finds that the Settlement as set forth in the Stipulation is in all respects fair, reasonable and adequate to each of the Releasing Parties and each Class Member and consistent with the RSL and RSC, and the Settlement is hereby approved by the Court. In making this determination, the Court has considered, among other things, the benefits conferred on the Class by the Settlement, the risks faced by the Class in establishing class certification, liability and damages, and the value of settlement now in comparison to the likely probable duration, complexity and further expense of this litigation in

the absence of a settlement. The Court further finds that the Settlement has been the product of arm's-length negotiations and has been entered into in good faith. The Parties thereto are directed to consummate the Settlement in accordance with the terms and conditions of the Stipulation.

6. In determining that the Settlement is in all respects fair, reasonable and adequate to each of the Releasing Parties and each member of the Class, and in approving the Settlement, the Court has considered that no [alternatively: X] objections have been raised by Class Members to the Settlement.

7. The Complaint against Defendant in this Action is dismissed on the merits and with prejudice, with each party to bear his, her or its own costs, except for the payment of the fees and costs of the Claims Administrator previously agreed to by the Parties and hereby approved by the Court, and the payment of the attorneys' fees and reimbursement of expenses and the Incentive Award to Plaintiff as otherwise provided for in Paragraph 10 below.

DECLARATORY RELIEF REWARDED

8. Declaratory Relief is awarded to the Parties as follows:
- a. The Settled Rent, as enumerated in ¶5 of the Parties' Stipulation and Agreement of Settlement (NYSCEF No. [REDACTED]) shall be established as the legal regulated rent;
 - b. Within thirty (30) days of the Order and Final Judgment Date, Defendant will tender renewal leases, reflecting the settled rents, on rent-stabilized forms.
 - c. Within six (6) months of the Order and Final Judgment Date, Defendant will file amended annual apartment registrations with DHCR for those apartments that were and/or are occupied by Class Members, to reflect the Settled Rent(s) during the respective filing periods.

FEES APPROVED

9. The application by Lead Counsel for the award of attorneys' fees and reimbursement of expenses is granted, and said counsel are awarded legal fees of \$ [REDACTED], equaling [REDACTED] % of the Settlement Amount, and expenses of \$ [REDACTED]. In addition, Plaintiff is awarded a Class Representative Incentive Award in the amount of \$ [REDACTED]. Said fees and expenses and Class Representative Incentive Award shall be deducted from the Settlement Amount in the manner prescribed in the Stipulation.

- a. If the total Past Overcharge Amount for all Eligible Class Members does not exceed the Net Cash Settlement Amount, any balance remaining in the Cash Settlement Account shall be paid back to Defendant.

10. All Class Members who have not requested exclusion and Plaintiff are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against Defendant or any of the parties released in the Stipulation.

11. Neither the Stipulation nor any proceedings taken in accordance with the terms set forth therein shall be construed or deemed to be evidence, or any presumption, admission or concession, either (a) on the part of Plaintiff, of the lack of merit of this Action, or (b) on the part of Defendant, of any violation of any statute or regulation or principle of common law, or of any fault, liability, or wrongdoing as to any facts or claims alleged or asserted in the Action, or any other action or proceeding, or that any person or entity has suffered any damages as a result of any matter that underlies any of the allegations or claims that were or could have been brought in the Action, and shall not be interpreted, construed, deemed, invoked, offered, or received in

evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, except for any litigation or judicial proceeding arising out of or relating to the enforcement of this Stipulation or the Settlement. Any such evidence, admission or concession is expressly denied and disclaimed by each of the Plaintiff and each of the Defendant.

12. Without in any way affecting the finality of this Order and Final Judgment, this Court shall retain continuing jurisdiction over this Action and the Parties to the Stipulation and the Class Members in order to: (a) effectuate the implementation of the Settlement; (b) enforce the terms of this Stipulation including, but not limited to, the releases provided herein; (c) hear all claims, defenses and counterclaims relating to the interpretation and enforcement of this Stipulation before and after the Effective Date as the Court deems appropriate; (d) review all challenges to final administrative determinations brought by Opt-Outs; (e) determine all other matters relevant to this Stipulation; (f) to enter any further orders as may be necessary or appropriate to effectuate the Stipulation, the Settlement, and the provisions of this Order and Final Judgment.

Dated: Queens, New York

ENTER:

J. S. C.

EXHIBIT D

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF THE BRONX

Index No.: 702197/2020

DONAL COGDELL JR., on behalf of himself
and all others similarly situated,

Plaintiff,

- against -

LEFFERTS, LLC

Defendant

**NOTICE OF PROPOSED
SETTLEMENT OF CLASS ACTION,
SETTLEMENT HEARING AND
RIGHT TO APPEAR, AND
APPLICATION OF PLAINTIFFS'
COUNSEL FOR AN AWARD OF
FEES AND EXPENSES**

TO: ALL INDIVIDUALS AND ENTITIES WHO RENTED DEREGULATED APARTMENTS IN THE BUILDING LOCATED AT 120-32 83RD STREET (THE "BUILDING") AT ANY TIME PRIOR TO JUNE 30, 2017, AND WHO RESIDED IN THE BUILDING AFTER JUNE 14, 2015.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. IF, AFTER REVIEWING THIS NOTICE, YOU HAVE QUESTION REGARDING THE NOTICE, THE AMOUNT TO WHICH YOU MAY BE ENTITLED, AND/OR THE AMOUNT OF YOUR RENT AFTER FINAL APPROVAL OF THE SETTLEMENT, YOU MAY CONTACT LEAD COUNSEL NEWMAN FERRARA AT 212-619-5400, OR VIA EMAIL AT RSACHAR@NFLLP.COM.

THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF LITIGATION AND CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS. YOUR RIGHTS WILL BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION. IF YOU TAKE NO ACTION AND THE COURT APPROVES THE PROPOSED SETTLEMENT, YOU WILL BE FOREVER BARRED FROM CONTESTING THE FAIRNESS, REASONABLENESS OR ADEQUACY OF THE PROPOSED SETTLEMENT, OR FROM PURSUING ANY OF THE SETTLED CLAIMS.

AFTER REVIEWING THIS NOTICE, YOU MAY FILE A CLAIM TO RECOVER ANY DAMAGES FOR PAST RENT OVERCHARGES THAT YOU MAY BE ENTITLED TO RECEIVE UNDER THE SETTLEMENT, BUT YOU MUST FOLLOW THE INSTRUCTIONS IN SECTION III BELOW AND IN THE ATTACHED CLAIM FORM. FAILURE TO FOLLOW THOSE INSTRUCTIONS WITHIN THE TIME FRAME REQUIRED COULD RESULT IN A WAIVER AND FORFEITURE OF YOUR DAMAGES AWARD.

I. PURPOSE OF THIS NOTICE

THIS NOTICE IS GIVEN pursuant to an Order (the “Preliminary Approval Order”) of the New York State Supreme Court, Queens County (the “Court”) entered in the above-captioned class action (the “Action”) brought on behalf of persons and entities who rented certain apartments (the “Units”) at the Building. The purpose of this Notice is to inform you of the proposed settlement of the Action (the “Settlement”), and of a hearing (the “Settlement Hearing”) to be held before the Honorable Karina E. Alomar in Supreme Court of the State of New York, County of Queens, Part 23, 25-10 Court Street, Long Island City, at ___ .m. on [REDACTED]. The purpose of the Settlement Hearing is (i) to determine whether the proposed Settlement, as set forth in a Stipulation and Agreement of Settlement entered into by the parties to the Action and dated as of [REDACTED], 2021 (the “Stipulation”), is fair, reasonable, adequate, in the best interests of the Class (defined below), is consistent with the New York Rent Stabilization Law (“RSL”) and Rent Stabilization Code (“RSC”), and should be approved by the Court; (ii) to determine whether a judgment should be entered in the Action pursuant to the proposed Settlement that will, among other things, dismiss the Complaint (defined below) with prejudice and release the Released Claims (defined below); (iii) to consider the application of Plaintiffs’ counsel for an award of attorneys’ fees and expenses; and (iv) to consider such other matters as the Court may deem appropriate.

The Court has determined that the Action shall be maintained as a class action under New York Civil Practice Law and Rules (“CPLR”) §§ 901, *et seq.*, consisting of all persons who were signatories of leases for units in the Building, who resided in an apartment in the Building prior to June 30, 2017 (the date the Building stopped receiving tax benefits pursuant to the J-51 Program), and January 14, 2015 (the statute of limitations cutoff).

This Notice describes the rights you may have under the Settlement and what steps you may take in relation to the Settlement.

If the Court approves the Settlement, the parties to the Action will ask the Court to enter an Order and Final Judgment (defined below) dismissing the Complaint with prejudice on the merits. You may review copies of the Stipulation, Preliminary Approval Order and other pertinent documents by visiting www.nflp.com/Leffertssettlement.com

II. DESCRIPTION OF THE LITIGATION

On February 7, 2020, Plaintiff Donal Cogdell Jr. (“Plaintiff”) filed a putative class action complaint (“Complaint”) challenging the rent stabilization status of the apartments at the Buildings. According to the allegations in the Complaint, certain tenants did not receive rent-stabilized leases and were charged rents in excess of the legal rent in violation of the Rent Stabilization Code and Rent Stabilization Laws. The Complaint alleges that the Buildings received tax abatements and/or exemptions pursuant to the New York City J-51 tax abatement program (the “J-51 Program”) under the New York Real Property Tax Law (“RPTL”). In 1993, the New York State Legislature enacted the Rent Regulation Reform Act, which permitted rent-

stabilized apartments for which the legal rent was \$2,000 per month or more and were either vacant or occupied by tenants with a combined annual income of greater than \$250,000 per year to be removed from rent stabilization (the so-called “Luxury Deregulation Rule”). Certain Units in the Buildings were treated as deregulated pursuant to the Luxury Deregulation Rule. The Complaint alleges that this deregulation was improper because buildings receiving J-51 benefits were barred from luxury deregulation. The Complaint further alleges that tenants in buildings receiving J-51 benefits are entitled to a rider (the “J-51 Rider”) disclosing that the building is receiving J-51 benefits, and the date those benefits expire, and that, according to the J-51 Program’s rules, failure to provide the J-51 Rider entitled tenants to rent-stabilized leases for as long as they (or their successors) occupy their units. As remedies, the Plaintiff sought: (a) monetary damages for the alleged overcharge of tenants in the Units (“Past Rent Claims”); and (b) a declaration that future rents were to be set at levels determined by the RSL and RSC (“Future Rent Claims”).

To avoid the costs, distractions and uncertainties of litigation, Plaintiff and Defendant have agreed to the resolution of the Action pursuant to the terms and conditions set forth in the Stipulation, and summarized below, which shall be presented to the Court for final approval pursuant to CPLR 908 after this notice is delivered to members of the Class.

On the basis of information available to them, including publicly available information, documents produced in the litigation, and documentation made available by Defendants in connection with settlement discussions, Lead Counsel and the Class Representatives have determined that the Settlement described herein is fair, reasonable, adequate, consistent with the RSL and RSC, and in the best interests of the Plaintiff and the Class.

EXCEPT WHERE EXPRESSLY STATED OTHERWISE, THE FOREGOING DESCRIPTION OF THE LITIGATION DOES NOT CONSTITUTE FINDINGS OF THE COURT AND SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.

III. SUMMARY OF THE SETTLEMENT TERMS

PAST RENT CLAIMS

All those who signed leases to rent Units during the period prior to the expiration of the J-51 Program (June 30, 2017), and occupied a unit in the Building on or after June 14, 2015, who has timely and properly filed a Claim Form (and do not opt out as described in Section V. below) is an “Eligible Class Member.” Each Eligible Class Member will receive a disbursement of cash from the Cash Settlement Account (defined below) in the amount of such Eligible Class Member’s Past Overcharge Amount(s) (the “Settlement Distributions”). Defendants will contribute \$1,150,000 into the Cash Settlement Account. If the total Past Overcharge Amount for all Eligible Class Members exceeds the available funds in the Cash Settlement Account (the “Net Cash Settlement Amount”), then the Past Overcharge Amount will be paid based on the pro rata share that each Eligible Class Member’s Past Overcharge Amount bears to the total Net Cash Settlement Amount.

The calculation of each Eligible Class Member's Past Overcharge Amount shall be calculated as follows:

First, a "Default Formula Rent" is established, which shall be the amount derived from the lowest of the formulas set out at RSC §2522.6(b)(3).

Second, if an Eligible Class Member between June 14, 2015 and the Preliminary Approval Date paid rent in excess of the Default Rent, the Eligible Class Member shall be entitled to a refund of the difference between the amount of Rent actually paid, and the Default Formula Rent, plus simple interest at the rate of nine (9) per centum per year, calculated from the first date of each month occurred (the "Past Overcharge Amount").

Third, the Past Overcharge Amount shall be reduced by any amount due and owing to the landlord ("Non-Payment Deductions") by the Eligible Class Member.

Past Overcharge Amounts and claims for Past Overcharge Amounts shall not be assignable or otherwise transferable by Eligible Class Members to any person or entity, other than Eligible Class Member's executor, administrator or trustee (for a trust that is in existence as of the Preliminary Approval Date or is a special needs trust) who may file or accept payment of that Class Member's claim.

If the Eligible Class Member for a particular lease term consists of two or more co-tenants, the Past Overcharge Amount will be divided equally amongst them. Settlement Distributions shall be made to only those co-tenants who timely submit a Claim Form. Any Non-Payment Deductions also shall be made equally and proportionally from each such co-tenant's Settlement Distribution, even if other co-tenants exist, but fail to submit a Claim Form (unless any other co-tenant opts out, in which case all the co-tenants shall be deemed to have opted out, including those co-tenants who timely submit a Claim Form). Any disputes among co-tenants concerning the allocation of any Settlement Distributions under this Settlement must be addressed and resolved amongst the co-tenants outside the scope of this Settlement, and the existence of any such actual or potential disputes shall not be a basis for objecting to the Settlement.

Any Non-Payment Deductions that will be deducted from any Past Overcharge Amount as discussed above shall be remitted to Landlord at the time Settlement Distributions are made. Any such payments to Landlord will reduce any amount owed by an Eligible Class Member, but such Eligible Class Member shall remain liable to Landlord for any balance remaining due after such payments. Any rent forgiven as part of legislation as part of any public health emergency legislation shall not be deducted as part of any Non-Payment Deductions. Any rent payment plan entered into by a tenant with Landlord prior to the Order and Final Judgment Date shall be accelerated and treated as a Non-Payment Deduction. If the amount owed under such payment plan exceeds the Past Overcharge Amount, then no Settlement Distribution shall be made and the remaining rental arrears shall be due and payable pursuant to the payment plan. If the Landlord claims a Non-Payment Deduction should be made to an Eligible Class Member's claim, such Eligible Class Member shall have forty-five (45) days from the receipt of notice to submit an objection to the claimed Non-Payment Deduction and any supporting documentation or other

materials (the “NPD Objections”). Plaintiff and Defendant will confer on the resolution of all NPD Objections. All NPD Objections that cannot be resolved will be submitted to the Court for determination.

TO RECEIVE ANY DAMAGES TO WHICH YOU MAY BE ENTITLED, YOU MUST FILE A CLAIM FOR SETTLEMENT DISTRIBUTIONS BY COMPLETING THE ATTACHED CLAIM FORM AND MAILING IT POSTMARKED ON OR BEFORE DECEMBER 1, 2021 TO LEAD COUNSEL AT THE ADDRESS LISTED ON THE FORM.

If a single Unit had multiple co-tenants at any given time, any subsequent dispute as to the entitlement to any Settlement Distributions under this Stipulation shall be solely between and among such co-tenants without recourse to Landlord and without any liability to any of the parties to this Stipulation. For identity verification purposes, all Claim Forms shall require Class Members to provide the month and year when their lease(s) commenced and terminated and the addresses of such Class Member's leased Unit(s). Class Members who do not timely file a Claim Form pursuant to these procedures shall be deemed to have waived and released their Past Rent Claims and Past Overcharge Amounts but shall nonetheless remain subject to the applicable releases discussed below unless he, she or it becomes an Opt-Out. Determinations as to whether a Claim Form has been timely and properly filed shall be made by the Claims Administrator.

Any claims for treble damages, any other punitive damages, fines or interest (other than 9% simple interest referenced above) are waived under the Settlement.

If you wish to opt out (defined below) of this damages portion of the settlement, you may do so by the procedures outlined below at Section V., “Your Right to Opt Out.” If you do so, you will not be entitled to any monetary payment under this Settlement, but you may retain the right to seek past damages in an independent action or proceeding. Please read Section V. carefully before opting out, as it sets forth additional risks those who opt out (“Opt-Outs”) may potentially face.

SETTLED RENT

For those Eligible Class Members still residing in their units, the Settlement provides for a Settled Rent, which will become the effective rent on the first day of the month after Final Approval of the Settlement. The calculation of each Eligible Class Member’s Settled Rent shall be calculated as follows:

First, a “Default Formula Rent” is established, which shall be the amount derived from the lowest of the set out at RSC §2522.6(b)(3).

Second, the Default Formula Rent is multiplied by 50% and added to 50% of the non-discounted rent listed in the Class Members’ leases effective on June 14, 2015, or the tenant’s first lease, which ever is later;

Third, Rent Guidelines Board renewal increases, calculated using the executed lease terms, will be added to the Settled Rent forward.

In the event the Settled Rent exceeds the Eligible Class Member's current monthly rent, the currently monthly rent shall be the Settled Rent.

IV. RELEASES

The Stipulation provides that if the Settlement is approved by the Court, a judgment will be entered dismissing the Complaint with prejudice, and containing a broad release applicable to you, both individually and on behalf of all other members of the Class. All Class Members (other than Opt-Outs), whether or not they submit a Claim Form, will release all of the Defendants and certain related parties from all claims that were or could have been made in the Action, including without limitation, damages, penalties, punitive damages, treble damages, liabilities or other remedies relating to (a) residential rents at the Building, (b) the rent-regulated status of any Unit at the Buildings, and/or (c) any other claims arising under the RSL or RSC based on any act, event or alleged failure to act prior to the Order and Final Judgment Date, including but not limited to any claim that a tenant was entitled to any particular form of lease, notice, or that the Buildings had to be registered with any governmental agency (the "Released Claims").

The full language of the releases is set forth in the Stipulation.

V. YOUR RIGHT TO OPT OUT

You may choose to be excluded from the provisions of the settlement relating to the Past Rent Claims. If you choose to be excluded in this way ("opt out") you will not receive any cash payment as a result of this Settlement, and you may seek damages by bringing an independent action or proceeding on your own behalf.

Each Class Member will be bound by all provisions of the Stipulation and the Settlement, whether favorable or unfavorable, unless such person mails, by first class mail, a written request for exclusion from the Class, postmarked no later than December 1, 2021 (the "Bar Date"), addressed to Lead counsel, which shall provide daily reports of such requests to each of the parties' attorneys. **No Class Member may exclude himself, herself or itself from the Class after the Bar Date.**

In order to be valid, each request for exclusion must: (a) set forth the name and address of the Class Member requesting exclusion (the "Opt-Out"); (b) provide that such Class Member "requests exclusion from the Class in *Cogdell v Lefferts, LLC* (Index No. 702197/2020)"; (c) be signed by such Class Member; and (d) include the addresses of all of such Class Member's leased Unit(s). **Requests for exclusion will not be accepted if they do not include the required information or if they are not made within the time stated above, unless they are otherwise accepted by the Court.** If one co-tenant of a Unit is an Opt-Out, all co-tenants of that Unit shall likewise be deemed to be Opt-Outs as to each lease term for which they were co-tenants.

The maximum rent for all Opt-Outs who are current tenants of the Buildings at the time they opt out shall be the Settled Rent and may be increased thereafter in accordance with applicable law.

Opt-Outs will not receive any Settlement Distributions. In any subsequent proceeding, Opt-Outs may make any claim or argument as to Past Rent Claims belonging to such Opt-Outs and Defendants may raise any defenses available to them whether at law, equity or pursuant to the Order and Final Judgment.

VI. REASONS FOR THE SETTLEMENT

Defendant asserts various defenses to this action, including that its conduct did not violate the rent regulations. Nevertheless, Defendant is entering into the Settlement solely because the proposed Settlement will eliminate the uncertainties, burden and expense of further litigation.

Plaintiff and Lead Counsel believe that the Settlement is fair, reasonable, adequate and in the best interests of the Plaintiff and the Class. Plaintiff and Lead Counsel also took into consideration the strengths and weaknesses of the Class' claims and defenses and determined that the terms of the proposed Settlement are fair, reasonable and adequate, and in the best interest of the Class.

VII. CONDITIONS OF SETTLEMENT

This Settlement is conditioned upon the fulfillment of a series of conditions which relate to, among other things, final court approval, dismissal of the Complaint with prejudice, and the occurrence of the Effective Date without any material change to the terms of the Stipulation (unless agreed to in writing by the parties). If any of the conditions do not come to pass, the Settlement shall be null and void, and no party shall be prejudiced by having signed the Stipulation.

VIII. FINAL ORDER AND JUDGMENT

If the Settlement (including any modification thereto made with the consent of the parties) shall be approved by the Court following the Settlement Hearing as fair, reasonable, and adequate and in the best interests of the Class, an Order and Final Judgment shall be entered in substantially the same form attached as Exhibit C to the Stipulation. The approval of the Settlement by the Court shall be considered final for purposes of the Stipulation upon the first day following the last of the following occurrences (the "Effective Date"): (a) the last date to file an Appeal or seek permission to Appeal has expired with no Appeal having been taken or sought; or (b) if any Appeal is taken or sought, the date a remittitur or order is entered by a court: (i) affirming the Order and Final Judgment or denying or dismissing any Appeal from the Order and Final Judgment, and any Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; (ii) reversing or modifying the Order and Final Judgment in any non-material respect and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally denied or dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; and (iii) reversing or modifying the Order and Final Judgment in a

material respect provided Plaintiff and Defendants agree in writing to remain bound to the Settlement as reversed or modified and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom. For purposes of this definition, a reversal or modification shall be deemed “material” if it materially affects any term of this Stipulation.

IX. PLAINTIFF’S ATTORNEYS’ FEES AND EXPENSES, AND OTHER PAYMENTS

Lead Counsel may apply to the Court, unopposed by Defendant, for a fee award of up to 33.25% of the Settlement Amount, plus out of pocket expenses (the “Attorney’s Fees and Expenses Award”), to be paid from the Settlement Amount, as well as for a Class Representative Incentive Award in the amount of up to \$7,500.00.

X. STAY OF PROCEEDINGS

Pending final determination of whether the Settlement should be approved, you are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against Defendant or any of the parties released as set forth in Section IV.

XI. SUCCESSORS AND ASSIGNS

The Stipulation and all its terms will be binding on you and any agent, heir, affiliate, successor, executor, affiliate, and assign of yours, as well as any agent, executor, heir, affiliate, successor and assign of any Defendant.

XII. CHOICE OF LAW

The parties have agreed that the Stipulation and the Settlement contemplated by it shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to New York’s conflict of law rules, as said laws exist on the execution of the Stipulation.

XIII. SETTLEMENT HEARING AND RIGHT TO APPEAR

You have the right to appear in person or through an attorney in Court at the Settlement Hearing and object to the proposed Settlement, or to otherwise be heard at the Settlement Hearing. You may present any evidence or argument that may be proper and relevant. However, to do so, you must, by no later than , file with the Clerk of Court and serve notice of your intent to appear by hand or by first class mail, postage prepaid, upon counsel for the parties, as specified below:

Roger A. Sachar Jr., Esq.
NEWMAN FERRARA LLP

Randi Gilbert, Esq.
Jillian Bittner Esq.

1250 Broadway, 27th Floor
New York, NY 10001
lferrara@nflp.com
rsachar@nflp.com

Attorneys for Plaintiff

**HORING WELIKSON ROSEN &
DIGRUGILLIERS, PC**
11 Hillside Avenue
Williston Park, NY 11596
rgilbert@hwrpc.com
jbittner@hwrpc.com

Attorneys for Defendant

Such notice shall contain: (a) a written notice of intention to appear containing a notarized statement attesting to the fact that such person is a member of the Class, and setting forth the Unit(s) in the Building in which the member resides or resided and the dates of said residence; (b) a detailed statement of such person's specific position with respect to the matters to be considered at the Settlement Hearing and the grounds therefore; and (c) copies of any papers such person intends the Court to consider.

Any member of the Class who fails to object in the above-prescribed manner shall be deemed to have waived his, her or its objection and shall be barred from raising such objection in this or any other action or proceeding.

Any Class Member who files and serves such a notice will be subject to discovery procedures by the parties' counsel to enable counsel to explore the objector's standing to object and the basis for the objection, as well as other relevant matters. Such discovery procedures may include without limitation taking your testimony under oath, demanding your answers to interrogatories or other written questions, and compelling production of documents and other relevant materials by you. All such discovery will be conducted and completed before the Settlement Hearing. By filing and serving such a notice, you will be deemed to have consented to conducting all such discovery on an expedited basis on three (3) days' written notice served upon you or your counsel, should you hire counsel.

Members of the Settlement Class who have no objection to the proposed Settlement do not need to appear at the Settlement Hearing or take any other action. If the Settlement is not approved, the case will continue and the Stipulation and the proposed Settlement shall become null and void and of no further force or effect.

XIV. DISMISSAL OF THE ACTION

If the Court approves the proposed Settlement, the Court will enter a judgment:

- 1) approving the proposed Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and directing consummation of the proposed Settlement, in accordance with the terms and conditions of the Stipulation;
- 2) dismissing the Action with prejudice on the merits, without costs except as provided in the Stipulation;
- 3) permanently barring and enjoining any and all Class Members from instituting, commencing, prosecuting, participating in or continuing any action or other proceeding

in any court or tribunal of this or any other jurisdiction, either directly, representatively, derivatively or in any other capacity, asserting any claims that arise out of, or in any way relate to, the Released Claims;

- 4) awarding Lead Counsel such fees and expenses as the Court deems appropriate, as well as awarding the Class Representative Incentive Award; and
- 5) reserving jurisdiction over all matters related to the consummation of the proposed Settlement.

The Court has the right to approve the proposed Settlement with modifications and without further notice to members of the Class. The Court may also adjourn the Settlement Hearing or any previous adjournment thereof without further notice other than to counsel for the parties.

XV. SCOPE OF THIS NOTICE

The foregoing description of the Action, the Settlement Hearing, the terms of the proposed Settlement and other matters described herein does not purport to be comprehensive. The references in this Notice to the pleadings in the Action, the Stipulation and other papers and proceedings are only summaries and do not purport to be comprehensive. For the full details of the Action, the claims that have been asserted by the parties and the terms and conditions of the Settlement, including a complete copy of the Stipulation and related orders and proposed forms of orders, members of the Class are referred to the Court files for the Action. You or your attorney may examine the public Court files during regular business hours of each business day at the offices of the Clerk, Supreme Court of the State of New York, County of Queens, 88-11 Sutphin Boulevard, Jamaica, New York 11435.. The index number for the Action is 702197/2020.

XVI. FURTHER INFORMATION

Any questions you have about the matters in this Notice should NOT be directed to the Court, but should instead be directed by telephone or in writing to Lead Counsel:

Roger A. Sachar Jr.
NEWMAN FERRARA LLP
1250 Broadway, 27th Floor
New York, NY 10001
Tel: (212) 619-5400
rsachar@nflp.com