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

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IN RE BEAR STEARNS LITIGATION

Index No. 600780/08

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CONSOLIDATED AMENDED CLASS ACTION COMPLAINT

Plaintiffs, individually and on behalf of all others similarly situated, by their attorneys, allege the following upon information and belief, except as to the allegations which pertain to them, which allegations are based upon personal knowledge:

NATURE OF THE ACTION

1. This is a shareholder class action on behalf of Plaintiffs and all public minority stockholders of The Bear Stearns Companies, Inc. ("Bear Stearns" or the "Company"), other than the individual Defendants described herein and their affiliates (the "Class"), arising out of a Proposed Buyout of all of the stock and assets of Bear Stearns (the "Proposed Buyout").[1]

2. Plaintiffs bring this action on behalf of themselves and on behalf of the Class against the Company and certain of the Company's officers and directors seeking equitable relief for Defendants' breaches of fiduciary duty and/or other violations of state

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[1] Pursuant to the stipulation signed by this Court on March 26, 2008, this Consolidated Amended Complaint ("CAC") is filed on behalf of plaintiffs in the following actions, which have been consolidated under the above caption: (1) *Kurtz v. Cayne, et al.*, N.Y. Sup. Ct., Index No. 600780/08; (2) *Shaev v. Cayne, et al.*, N.Y. Sup. Ct., Index No. 600781/08; (3) *Bobb v. Greenberg, et al.*, N.Y. Sup. Ct., Index No. 600793/08; (4) *Yun v. Cayne, et al.*, N.Y. Sup. Ct. Index No. 650078/08; and (5) *Louisiana v. Cayne, et al.*, N.Y. Sup. Ct., Index No. 600830/08.

law arising out the Bear Stearns' efforts to sell the Company to Defendant JPMorgan Chase & Co. ("JPMorgan"), and against JPMorgan for inadequate and unfair consideration.

3. The Proposed Buyout, already approved by Bear Stearns and the Defendants, will clearly harm the Plaintiffs and the Class as its terms are grossly inadequate and unfair. Initially, on March 16, 2008, JPMorgan announced a transaction whereby JPMorgan would acquire Bear Stearns for $236 million in a Federal Reserve-backed bailout (the "Initial Proposal"). The Initial Proposal would effectively have permited Bear Stearns stockholders to receive for each share of Bear Stearns common stock approximately 0.05473 JPMorgan shares. This represented a $2 value of Bear Stearns shares– a massive discount to the firm's closing price at $30 on Friday March 14, 2008.

4. The Initial Proposal also included various onerous provisions that all but assured that no higher or topping bid would emerge. These preclusive provisions included: (i) a strict "No Solicitation" provision preventing the Company from seeking higher offers for Bear Stearns' shareholders; (ii) the requirement of informing JPMorgan of any superior offer and negotiating with JPMorgan to allow JPMorgan to top such offer; (iii) an option for JPMorgan to purchase approximately 20% of Bear Stearns's shares at a price of $2.00 each; and (iv) an option for JPMorgan to purchase Bear Stearns' corporate headquarters building in midtown Manhattan ("Asset Option"), even if Bear Stearns' Board of Directors recommended a rival, superior offer. In combination, these terms represented insurmountable obstacles for third-parties that might have wished to bid for the Company.

5. On March 24, 2008, after the consolidated shareholder suits were filed challenging JPMorgan's "fire-sale" $2 buyout offer, Bear Stearns and JPMorgan filed an amendment to the Proposed Buyout with the SEC (the "Amended Proposal"). The Amended Proposal increased the offer of 0.05473 of JPMorgan shares to 0.21753 of JPMorgan shares per one Bear Stearns' share, worth approximately $10 per share. This price, however, is still grossly inadequate based on the Company's recent trading history and book value. This new bid represents a buy-out price of $938 million, less than a third of the Company's market value of $3.54 billion as of March 14, 2008.

6. In the Amended Proposal, Bear Stearns also gives JPMorgan a 39.5% ownership stake in Bear Stearns' stock prior to the buy-out's completion through a share exchange (the "Share Exchange Agreement"). According to the Share Exchange Agreement executed by the Company and JPMorgan on March 24, 2008, JPMorgan will purchase 95 million shares of newly issued Bear Stearns common stock. The parties expect this share grant to close on April 8, 2008 without a shareholder vote. The Share Exchange Agreement, in combination with the votes of Bear Stearns' directors, will give JPMorgan the simple majority vote it needs to acquire Bear Stearns.

7. The Amended Proposal effectively precludes any higher or topping bids from emerging and usurps the merger vote from Bear Stearns' shareholders.

8. As a result of the Share Exchange Agreement, the board of Bear Stearns engaged in a flawed process for the sale of the Company. The Court should declare the Share Exchange Agreement null and void, rescind it, and set it aside.

9. The Court should also enjoin JPMorgan from acquiring the Company for the grossly inadequate consideration offered and improperly approved of by the Bear Stearns board.

JURISDICTION AND VENUE

10. This Court has personal Jurisdiction over the Defendant pursuant to §§ 301 and 302 of the New York Civil Practice Law and Rules ("CPLR") in that Defendants reside in this States, are incorporated in this State and/or transact business in this State. The amount in controversy exceeds $100,000.

11. Venue is proper in this County pursuant to CPLR § 503 in that, on information and belief, one or more of the Defendants reside in this County. Defendant Bear Stearns maintains its principal place of business at 383 Madison Avenue, New York, NY. Defendant JPMorgan maintains its principal place of business at 270 Park Avenue, New York, NY.

PARTIES

12. Plaintiff Richard Kurtz holds shares of Bear Stearns common stock and has owned such shares at all material times.

13. Plaintiff David B. Shaev holds shares of Bear Stearns common stock and has owned such shares at all material times.

14. Plaintiff Stanley Bobb holds shares of Bear Stearns common stock and has owned such shares at all material times.

15. Plaintiff Danny Yun holds shares of Bear Stearns common stock and has owned such shares at all material times.

16. Plaintiff Louisiana Municipal Police Employees' Retirement System holds shares of Bear Stearns common stock and has owned such shares at all material times.

17. The individual Plaintiffs in paragraphs 12 through 16 are collectively referred to herein as the "Plaintiffs."

18. Defendant Bear Stearns is a Delaware Corporation with its principal executive offices located at 383 Madison Avenue, New York, NY 10179. Bear Stearns is a global investment banking, securities and derivatives trading, clearance and brokerage firm operating in three principal segments: Capital Markets, Global Clearing Services and Wealth Management. Bear Stearns is named as a defendant in order to provide complete and full relief. Bear Stearns stock is actively traded on the New York Stock Exchange (an open and efficient market) under the symbol "BSC."

19. Defendant Alan D. Schwartz ("Schwartz") is, and at all relevant times has been, the President and Chief Executive Officer of Bear Stearns. He also served as Chief Operating Officer until January 8, 2008, when he succeeded Defendant James Cayne as Chief Executive Officer.

20. Defendant James E. Cayne ("Cayne") is, and at all relevant times has been, Chairman of the Board of Directors of Bear Stearns. He also served as Chief Executive Officer of the Company until January 8, 2008.

21. Defendant Alan C. Greenberg ("Greenberg") is, and at all relevant times has been, the Chairman of the Executive Committee of the Company and a member of the Company's Board of Directors.

22. Defendant Henry S. Bienen ("Bienen") currently serves as a Director of the Company.

23. Defendant Carl D. Glickman ("Glickman") currently serves as a Director of the Company.

24. Defendant Michael Goldstein ("Goldstein") currently serves as a Director of the Company.

25. Defendant Donald J. Harrington ("Harrington") currently serves as a Director of the Company.

26. Defendant Frank T. Nickell ("Nickell") currently serves as a Director of the Company.

27. Defendant Paul A. Novelly ("Novelly") currently serves as a Director of the Company.

28. Defendant Frederic V. Salerno ("Salerno") currently serves as a Director of the Company.

29. Defendant Vincent Tese ("Tese") currently serves as a Director of the Company.

30. Defendant Wesley S. Williams Jr. ("Williams") currently serves as a Director of the Company.

31. The Defendants identified in paragraphs 19 through 30 are collectively referred to herein as the Individual Defendants.

32. Defendant JPMorgan is a Delaware corporation with it principal executive offices located at 270 Park Avenue, New York, NY 10017. JPMorgan is a global financial services firm providing investment banking, financial services for consumers, small business and commercial banking, financial transaction processing, and private equity.

CLASS ACTION ALLEGATIONS

33. Plaintiffs bring this action individually and as a class action pursuant to Article 9 of the CPLR on behalf of the shareholders of Bear Stearns common stock (the "Class"). Excluded from the Class are Defendants and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants.

34. This action is properly maintainable as a class action for the following reasons:

a. As of February 20, 2008, Bear Stearns had approximately 145,633,335 shares of common stock issued and outstanding. Bear Stearns' stock is actively traded on the New York Stock Exchange ("NYSE") under the symbol BSC. The Class is so numerous that joinder of all members is impracticable.

b. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual class member, including, inter alia, the following:

i. whether Defendants have breached and are continuing to breach their fiduciary duties owed by them to Plaintiffs and the members of the Class;

ii. whether Defendants have breached their fiduciary duty to maximize shareholder value to Plaintiffs and the other members of the Class by failing to establish procedures to sell the Company's assets to JP Morgan or other interested buyers at the maximum price obtainable;

iii. whether the board of Bear Stearns conducted a flawed process for the sale of the Company;

iv. whether the board of Bear Stearns breached its fiduciary duty in failing to obtain shareholder approval for the Share Exchange Agreement with JPMorgan;

v. whether the Class is entitled to injunctive relief and/or damages as a result of Defendants' wrongful conduct.

35. Plaintiffs are committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature. Plaintiffs' claims are typical of the claims of the other members of the Class, and Plaintiffs have the same interests as the other members of the Class. Accordingly, Plaintiffs are adequate representatives of the Class and will fairly and adequately protect the interests of the Class.

36. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

37. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants, or adjudications with respect to individual members of the Class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

38. The likelihood that individual members of the Class will prosecute separate individual actions is remote because of the burden and expense of prosecuting litigation of this nature and magnitude.

39. Questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

SUBSTANTIVE ALLEGATIONS

Background

40. Bear Stearns was established in 1923 and is a leading global investment banking, securities trading and brokerage firm. It is a holding company that, through its broker-dealer and international bank subsidiaries, principally Bear, Stearns & Co. Inc. ("BSC"), Bear, Stearns Securities Corp. ("BSSC"), Bear, Stearns International Limited ("BSIL") and Bear Stearns Bank plc ("BSB"), is primarily engaged in business as a securities broker-dealer and operates in three principal segments: Capital Markets, Global Clearing Services and Wealth Management.

41. For the year ended 2007, amid general financial difficulties in the subprime market, Bear Stearns reported its first-ever loss as a result of write-downs for mortgage holdings and declines in trading and investment banking.

42. Between January and February 2008, the Company reported difficulties arising from its exposure to the sub-prime market. During that time, the Company's stock, nevertheless traded at between $70 and $90, representing a stock-market value of roughly $20 billion.

43. Through the Proposed Buyout, JPMorgan will acquire Bearn Stearns' prime brokerage business, their investment banking business, an equities business, and a commodities unit with a focus on energy trading. Bear Stearns is the third-largest prime broker, behind Morgan Stanley and Goldman Sachs.

44. At the end of February of this year, the Company had $33 billion of mortgage-related holdings.

45. Roughly $2 billion of that was tied to subprime home loans, with $15 billion backed by prime and so-called Alt-A-mortgages, according to a JPMorgan presentation on Sunday. The rest - $16 billion- is commercial mortgage-backed securities. About $20 billion of Bear Stearns' mortgage exposure will now be covered by the financing provided by the Federal Reserve, leaving JPMorgan exposed to roughly $13 billion of mortgage securities.

46. On March 10, 2008, the market became awash with speculation concerning possible liquidity problems at Bear Stearns. In response, defendant Schwartz appeared on CNBC and stated, "We don't see any pressure on our liquidity, let alone a liquidity crisis." On the same day, Bear Stearns issued a press release stating that "there is absolutely no truth to the rumors of liquidity problems that circulated today in the market." The press release quoted defendant Schwartz as stating that "Bear Stearns' balance sheet, liquidity and capital remain strong."

47. On March 11, 2008, Bear Stearns reported to the Securities and Exchange Commission that it had over $17 billion in cash and unencumbered assets.

48. Notwithstanding Bear Stearns' efforts to reassure the market concerning its liquidity, customers engaged in a massive exodus from the Company. By the close of

business on March 13, 2008, Bear Stearns' cash position had reportedly dwindled to $2 billion.

49. On Friday March 14, 2008, just before the stock market opened, Bear Stearns announced that it had turned to rival JPMorgan and the federal government for an emergency bailout. Under the agreement, JPMorgan would provide an unspecified amount of funding to Bear Stearns for an initial period of 28 days, and those loans would be effectively insured by the Federal Reserve.

50. In a public statement made that day, Bear Stearns Chief Executive, Alan Schwartz, said "[o]ur liquidity position in the last 24 hours had significantly deteriorated...We took this important step to restore confidence in us in the marketplace, strengthen our liquidity and allow us to continue normal operations."

51. In a Credit Suisse First Boston analyst report dated March 14, 2008, analyst Susan Katzke set Bear Stearns' 12-month target price to $35 per share. This reduction was in light of Bear Stearns' widely publicized liquidity crisis and the announcement of Bear Stearns' financing deal with JPMorgan and the Federal Reserve. Thus, even in possession of essentially all of the facts concerning the Company's issues leading up to the Proposed Buyout, independent analysts were still valuing Bear Stearns stock at prices many, many times higher than the Proposed Buyout consideration.

The Initial Proposal

52. On Sunday March 16, 2008, JPMorgan said that it would acquire Bear Stearns for $236 million in a Federal Reserve-backed bailout unprecedented in scope and execution. The all-stock deal valued Bear Stearns at $236 million, or just $2 per share. Under the Initial Proposal, JPMorgan would have acquired Bearn Stearns in exchange for

0.05473 shares of JPMorgan stock for each share of Bear Stearns. The press release announcing the transaction described the proposed deal as follows:

> JPMorgan Chase & Co. (NYSE: JPM) announced that it is acquiring The Bear Stearns Companies Inc. (NYSE: BSC). The Boards of Directors of both companies have unanimously approved the transaction.
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> The transaction will be a stock-for-stock exchange. JPMorgan Chase will exchange 0.05473 shares of JPMorgan Chase common stock per one share of Bear Stearns stock. Based on the closing price of March 14, 2008, the transaction would have a value of approximately $2 per share.
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> Effective immediately, JPMorgan Chase is guaranteeing the trading obligations of Bear Stearns and its subsidiaries and is providing management oversight for its operations. Other than shareholder approval, the closing is not subject to any material conditions. The transaction is expected to have an expedited close by the end of the calendar second quarter 2008. The Federal Reserve, the Office of the Comptroller of the Currency (OCC) and other federal agencies have given all necessary approvals.
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> In addition to the financing the Federal Reserve ordinarily provides through its Discount Window, the Fed will provide special financing in connection with this transaction. The Fed has agreed to fund up to $30 billion of Bear Stearns' less liquid assets.
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> "JPMorgan Chase stands behind Bear Stearns," said Jamie Dimon, Chairman and Chief Executive Officer of JPMorgan Chase. "Bear Stearns' clients and counterparts should feel secure that JPMorgan is guaranteeing Bear Stearns' counterparty risk. We welcome their clients, counterparties and employees to our firm, and we are glad to be their partner."
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> Dimon added, "This transaction will provide good long-term value for JPMorgan Chase shareholders. This acquisition meets our key criteria: we are taking reasonable risk, we built in an appropriate margin for error, it strengthens our business, and we have a clear ability to execute."
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> "This past week has been an incredibly difficult time for Bear Stearns. This transaction represents the best outcome for all of our constituencies based upon current circumstances," said Alan Schwartz, President and Chief Executive Officer of Bear Stearns. "I am incredibly proud of our employees and believe they will continue to add tremendous value to the new enterprise."

53. During the one week prior to this announcement, Bearn Stearns' stock was trading above $60 per share, and one year ago, it was trading at more than $150 per share.

54. According to analysts, the price of $2 per share represents 2.4% of Bear Stearns' fourth-quarter 2007 book value per share of $84.09. In a March 17, 2008 report by the *Associated Press*, Deutsche Bank analyst Mike Mayo expressed "shock that a company (Bear Stearns) that reaffirmed its book value at around $84 on (Wednesday) [*i.e.*, March 12, 2008] can be worth $2 per share four days later on Sunday."

55. As part of the transaction, JPMorgan will acquire Bear Stearns midtown Manhattan headquarters. According to a March 18, 2008 *Bloomberg* report, the 45-story structure built in 2001 is worth about $1.2 billion.

56. As reported by *Reuters* on March 20, 2008, "[a]nother unusual aspect of the deal is the way JPMorgan Chase & Co . . . has been allowed into the Bear Stearns Cos Inc . . . headquarters to provide 'management oversight of its operations.' If shareholders were to reject the JPMorgan offer, JPMorgan still would [be] in a position to understand everything about Bear's trading strategies, staff quality and assets."

57. As stated in the *Wall Street Journal's Deal Journal* on March 19, 2008, the Initial Proposal made it unlikely that JPMorgan would face any competing bids for three reasons: (a) even if Bear Stearns shareholders repeatedly reject JPMorgan's offer, no competing offer can be accepted for one year; (b) JPMorgan has the option to purchase the lesser of 29,000,000 shares or the number of shares equal to 19.9% of Bear Stearns' existing stock for $2.00 per share; and (c) JPMorgan has the option of purchasing Bear Stearns' corporate headquarters even if a rival bid is successful.

58. The market's reaction to this transaction confirmed the gross inadequacy of the consideration offered by JPMorgan. On March 17, 2008, the first trading day after the announcement of the Proposed Buyout, JPMorgan stock climbed from the previous closing price of $36.54 to close at $40.31. On March 18, 2008, JPMorgan stock increased further to close at $42.71. By the closing bell on March 20, 2008, JPMorgan's stock reached $45.97 per share. Thus, by agreeing to pay $236 million to acquire Bear Stearns, the market capitalization of JPMorgan had increased by $32 billion.[2]

The Amended Proposal

59. On March 24, 2008, Bear Stearns and JPMorgan executed the Amended Proposal.

60. Under the terms of the Amended Proposal, JPMorgan increased its offer to 0.21753 shares of JPMorgan common stock for one share of Bear Stearns' stock. Thus, based on the closing price of JPMorgan shares on March 23, 2008, the per share offer was worth approximately $10. Although an increase, this price is still grossly inadequate based on the Company's recent trading history and book value. The Amended Proposal represents a buy-out price of approximately $938 million, less than a third of the Company's market value of $3.54 billion as of March 14, 2008.

61. The Amended Proposal renders it virtually impossible for a topping bid to emerge because Section 6.9(d) limits the definition of a "superior proposal" to one made by a "Qualifying Party," defined as a third party that enters in guarantees at least equivalent to, and no less comprehensive than, those of JPMorgan **and** the Federal Reserve. In particular, Section 6.9(d) provides that a Qualifying Party:

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[2] These shareholder actions were filed on March 17, 18 and 20, 2008.

> means a third party that (i) enters into one or more guaranties of the obligations of the Company and its Subsidiaries that are at least equivalent (and no less 5 comprehensive) to each of the Guaranty (as hereinafter defined) and the Fed Guaranty (which guaranties shall take effect simultaneously with the termination of, and shall supersede, the
> Guaranty and the Fed Guaranty), (ii) has capital, liquidity and financial strength sufficient that such replacement guaranties will enable Company and its Subsidiaries to conduct business in the ordinary course as then conducted and (iii) enters into financing and support arrangements with the Federal Reserve as are necessary to enable Company and its Subsidiaries to conduct business in the ordinary course as then conducted."

62. While the Initial Proposal did not so limit the definition of a third party that was deemed qualified to submit a superior proposal, the Amended Proposal effectively shuts the door to any possible auction and superior offer for the Company.

63. Further, the Amended and Restated Guaranty Agreement of the Amended Proposal, significantly reduces the value and effectiveness of the guaranty that JPMorgan was to provide. Specifically, under Section 3 of the Guaranty Agreement of the Initial Proposal, the JPMorgan guarantee would remain in effect if the Company's shareholders voted down the merger. In that case, the Company and its shareholders would still have the benefit of the JPMorgan guaranty while either renegotiating a better deal with JPMorgan or seeking out other suitors. Under the Amended Guaranty Agreement, the JPMorgan guarantee would terminate after 120 days in the event shareholders reject the merger.

64. Section 6.11 of Amended Proposal states that the Asset Option is triggered even if Bear Stearns' shareholders do not approve the transaction at the first duly held shareholder meeting. This provision is highly coercive -- either Bear Stearns' shareholders vote in favor of the merger or the Company may suffer the consequences of

having its headquarters bought out from under it. The same provision further discourages the emergence of competing bidders for the Company.

65. The Company and JPMorgan also executed a Share Exchange Agreement on March 24, 2008 whereby JPMorgan will receive 95 million shares of newly-issued Bear Stearns common stock in exchange for unregistered, and illiquid, shares of JPMorgan stock. The additional 95 million shares of Bear Stearns' common stock will represent, when issued, 39.5% of the Company's then outstanding, voting stock.

66. According to the share exchange agreement, JPMorgan is exchanging 20,665,350 shares of its own unregistered stock for the Company's stock. Since there is no trading market for the JPMorgan shares and they are illiquid, and since, once the merger is completed, JPMorgan will effectively get its own shares back again, the consideration for the share exchange transaction is illusory.

67. The issuance by Bear Stearns of more than 20% of its stock requires prior shareholder approval under the rules of the New York Stock Exchange. The NYSE's Listed Company Manual Paragraph 312.03(c) provides:

> Shareholder approval is required prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions if: (1) the common stock has or will have upon issuance, voting power equal to or in excess of 20 percent of the voting power outstanding before the issuance of such stock or of securities convertible into or exercisable for common stock; or (2) the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of 20 percent of the number of shares of common stock outstanding before the issuance of the common stock or of securities convertible into or exercisable for common stock.

68. However, the Company relies on an "exception" to this rule under Paragraph 312.05 of the NYSE Listed Company Manual. Section 312.05 provides that:

> Exceptions may be made to the shareholder approval policy in Para. 312.03 upon application to the Exchange when (1) the delay in securing the stockholder approval would seriously jeopardize the financial viability of the enterprise and (2) reliance by the company on this exception is expressly approved by the Audit Committee of the Board.

69. The Audit Committees' claim that Bear's financial viability would be "seriously jeopardized" by delaying to secure stockholder approval is at odds with the fact that the JPMorgan guaranty and Federal Reserve's guaranty are in place at least until Bear Stearns' shareholders are to vote on the merger itself. With those guarantees in place, Bear Stearns' financial viability is not at issue, and there is absolutely no justification for denying the shareholders the right to approve the issuance of shares that will have 39.5% of the total voting power, where the issuance of the shares is preliminary and scheduled to occur well before the shareholder vote on the merger itself.

70. Thus, the Share Exchange Agreement is nothing more than an attempt by Defendants to stuff the ballot box and to deprive the current shareholders of their right to approve the share exchange. The board's reliance on the "exception" taints the entire sale process.

71. According to the *Wall Street Journal's Deal Journal* on March 25, 2008, Bear Stearns' directors and executive officers own 9.7% of the voting stock as of January 31, 2008. Per the *Wall Street Journal's Deal Journal*, these directors and executive officers are expected to vote in favor of the merger. Thus, JPMorgan and these directors and executive officers would together own 49.2% of Bear Stearns' stock. This means that JPMorgan can push through the merger with as little as 0.8% of all other shareholders voting to approve the merger.

72. By diluting shareholder voting power in this way, Bear Stearns and JPMorgan guaranteed that the merger would be approved even if 99.1% of the shareholders who are not board members or executive officers object to the merger.

73. Under the Amended Proposal, the Federal Reserve's special financing has also been amended. JPMorgan is responsible for the first $1 billion in losses from Bear Stearns' assets, and the Federal Reserve will fund the remaining $29 billion on a *non-recourse* basis to JPMorgan, thus absorbing any losses without cost to JPMorgan.

74. The *Wall Street Journal* reported on March 24, 2008, that the Federal Reserve would assume control of $30 billion of Bear Stearns' assets, and the Fed would keep any profits from this portfolio.

75. On March 19, 2008, the *Wall Street Journal* reported that Bear Stearns' board of directors, which is "bracing for a slew of lawsuits over the weekend fire sale" approved a bylaw that would allow indemnified employees, such as the board of directors, to be reimbursed "promptly" by the company for defending lawsuits.

76. Reflecting JPMorgan's belief that terms of the proposed merger would result in successful shareholder lawsuits, JPMorgan reserved $6 billion for "transaction-related" costs, and *Financial Week* reported on March 24, 2008, that a "good chunk" of this amount would be used to pay aggrieved shareholders. This represents a reserve of approximately $40 per share.

77. However, neither the Initial Proposal nor the Amended Proposal provides that the unused portion of this reserve will be returned to Bear Stearns' shareholders.

78. Because of the many questions raised by the Proposed Buyout, the U.S. Senate Finance Committee is reviewing the sale and is holding hearings in that regard.

The House of Representatives' Oversight and Government Reform Committee is also launching a preliminary investigation.

79. On March 24, 2008, JPMorgan's stock closed at $46.55, an increase of $0.58 on the day it announced the Amended Proposed, resulting in an increase in market capitalization of close to $2 billion. From March 17 through March 24, 2008, JPMorgan's stock increased a total of $10.01 per share, resulting in a total increase in market capitalization of $34 billion.

80. Per the *Wall Street Journal* on March 25, 2008, the breakup value of Bear Stearns is $7.7 billion. This is eight times the JPMorgan purchase price.

81. Thus, the transaction price is grossly unfair. In fact, as recently as two weeks before the filing of this Complaint, Bear Stearns' stock was trading at above $60 per share.

82. After the Initial Proposal was announced at $2 per share, Bear Stearns' shares traded well over $8 per share, indicating that the market believed that the purchase price being offered by JPMorgan was grossly inadequate. Even after the merger price was raised to $10 per share, Bear's shares traded as high as $13.84.

83. On March, 24, 2008, Credit Suisse analyst Susan Katzke raised the 11/08 book value per share (pre dilution) to $85.90 from the same estimate in the March 17, 2008 report of $81.60. As such, it is clear that the Company's inherent value continues to vastly exceed the consideration to be paid in the Proposed Buyout.

84. In addition the Company's Clearing Unit generated about $1.2 billion in revenue in 2007 and a profit of $566 million in 2007 despite the meltdown in the

subprime credit markets that took place that year. The Company has many other units valued in the aggregate at billions of dollars.

85. The fact that JPMorgan is required to guaranty Bear Stearns' unknown mortgage bond liabilities does not provide any basis to substantially discount the Company's value given that the Fed has guaranteed to JPMorgan up to $29 billion of losses associated with those securities.

86. Accordingly, Plaintiffs, individually and on behalf of the Class, seek injunctive and other equitable relief to prevent the irreparable injury that the Company and its shareholders will continue to suffer absent judicial intervention and/or further disclosure by the Company for the shareholders to cast an informed vote regarding the proposed transaction

87. As a result of the actions of Defendants, Plaintiffs and the other members of the Class will be damaged in that they have not and will not receive their fair proportion of the value of Bear Stearns' assets and businesses and will be prevented from obtaining appropriate consideration for their shares of Bear Stearns common stock.

88. Plaintiffs and the Class will suffer irreparable damage unless the Company is enjoined from pursuing the Proposed Buyout.

89. Plaintiffs have no adequate remedy at law.

FIRST CAUSE OF ACTION

Claim For Breach of Fiduciary Duties Against Individual Defendants

90. Plaintiffs repeat and reallege each and every allegation set forth herein.

91. As directors of the Company, the Individual Defendants owe to Bear Stearns and its shareholders fiduciary duties of loyalty, due care, good faith, fair dealing

and candor. These fiduciary duties required them to place the interests of Bear Stearns and its shareholders above their own interests and/or the interest of the Company's management and directors.

92. In connection with the Proposed Buyout, the Individual Defendants have violated the fiduciary duties owed to Plaintiffs and the Class, including their duties of due care, loyalty and good faith. As a result of the Individual Defendants' breaches of their fiduciary duties, neither Plaintiffs nor the Class will receive adequate or fair value for their Bear Stearns common stock in the Proposed Buyout. Moreover, the Individual Defendants conducted a flawed sales process by failing to obtain shareholder approval for the Share Exchange Agreement with JPMorgan.

93. By the acts, transactions and courses of conduct alleged herein, Defendants, individually and acting as a part of a common plan, are attempting to unfairly deprive Plaintiffs and other members of the Class of the true value of their investment in the Company.

94. Unless enjoined by this Court, the Defendants will continue to breach their fiduciary duties owed to Plaintiffs and the Class, and may consummate the Proposed Buyout, which offers a grossly unfair price for Bear Stearns' valuable assets and businesses. As a result of Defendants' unlawful actions, Plaintiffs and the other members of the Class will be irreparably harmed in that they will not receive their fair portion of the value of Bear Stearns' assets and business and will be prevented from obtaining the real value of their equity ownership of the Company.

95. Plaintiffs and the members of the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiffs and the Class be

fully protected from the immediate and irreparable injury that Defendants' actions threaten to inflict.

96. The Individual Defendants, however, have given no indication that they intend to take those steps necessary to maximize shareholder value.

SECOND CAUSE OF ACTION

Claim for Declaratory Judgment and to Set Aside the Share Exchange Agreement

97. Plaintiffs repeat and reallege the foregoing allegations as though fully set forth herein.

98. Under the Share Exchange Agreement, the Individual Defendants agreed to give JPMorgan 95 million shares of Bear Stearns' common stock, or approximately 39.5% of the Company, in exchange for shares of JPMorgan. That transaction is scheduled to close on April 8, 2008.

99. The Individual Defendants were required to obtain shareholder approval before exchanging the 95 million shares for JPMorgan stock, because more than 20% of the Company's stock is subject to the transfer.

100. The Defendants' reliance upon an exception under NYSE Rules to obtaining prior shareholder approval for the share exchange on the ground that securing shareholder approval "would seriously jeopardize the financial viability of the ... [C]ompany" (Form 8-K for The Bear Stearns Companies Inc., filed March 24, 2008), has no basis and is untrue.

101. Bear Stearns' financial viability has been guaranteed by both JPMorgan and The Federal Reserve Bank of New York, at the very least through the special shareholder meeting that the Company must convene to obtain shareholder approval for

the Merger. The shareholder vote to approve the Merger will likely be held in mid-May 2008.

102. The voting rights of Plaintiffs and other class members have been denied and abridged as a result of the Share Exchange Agreement and the Defendants' professed intent to consummate the share exchange without shareholder approval.

103. Plaintiffs request a declaration that the Share Exchange Agreement is null and void as having been procured without shareholder approval.

104. Plaintiffs also seek an order setting aside any actual exchange of shares from Bear Stearns and JPMorgan that may occur pursuant to the Share Exchange Agreement. (CPLR 3017(b)).

105. This is a justiciable controversy because there is a bona fide, actual, present controversy between genuine disputants with a stake in the outcome. The Court has subject matter over the dispute. All of the parties who have an actual interest in the subject matter of the relief sought are before the Court.

<u>THIRD CAUSE OF ACTION</u>

Claim for Aiding and Abetting Breach of Fiduciary Duties Against Defendant JPMorgan

106. Plaintiffs incorporate by reference the allegations set forth above as if fully set forth herein.

107. Defendant JPMorgan, as a result of the foregoing conduct participated in and facilitated the breach of fiduciary duties described herein.

108. By virtue of its role as the proposed acquirer of the Company pursuant to the terms of the Proposed Buyout Defendant JPMorgan was able to, and did, render aid

and assistance to the Company and the Individual Defendants in their breach of fiduciary duties. Defendant JPMorgan did so when it knew that the terms of the Proposed Buyout, including the grossly inadequate offer price, and nevertheless benefited itself and certain of the other Defendants and to the detriment of the Company's shareholders.

109. By reason of the foregoing, the Company's public shareholders have sustained and will continue to sustain damages and injuries, including but not limited to, being prevented from receiving their fair portion of the value of the Company's assets and business and from obtaining the real value of their equity ownership of the Company.

110. Plaintiffs have no adequate remedy at law.

FOURTH CAUSE OF ACTION

Equitable Assessment of Attorneys Fees Against All Defendants

111. Plaintiffs repeat and reallege each allegation set forth above.

112. On March 17, 2008, Bear Stearns announced that it had entered into an Agreement and Plan of Merger with JPMorgan, dated March 16, 2008

113. On March 17, 2008, plaintiffs Richard Kurtz and David B. Shaev, IRA filed shareholder suits alleging that the board of Bear Stearns breached its fiduciary duty in approving the Agreement and Plan of Merger dated March 16, 2008. Kurtz filed his lawsuit under Index No. 600780/08 and Shaev filed under Index No. 600781/08. Among other things, the suits alleged that the board had agreed to sell Bear Stearns in a "fire sale" at $2 per share -- a price well below the Company's trading price and value before the announcement of the Merger.

114. Plaintiffs Kurtz and Shaev served requests for documents on JPMorgan and Bear Stearns on March 18, 2008, seeking discovery concerning the board's decision to sell the Company at the $2 "fire-sale" price.

115. On March 18, 2008, Plaintiffs Stanley Bobb and Danny Yun filed similar shareholder actions challenging the Merger under Index No. 600793/08 and Index No. 650078/08, respectively. On this date, Plaintiff Yun served requests for documents on Bear Stearns and shortly thereafter served requests for documents on JPMorgan.

116. On March 20, 2008, the Louisiana Municipal Police Employees' Retirement System also filed a similar shareholder suit, Index No. 600830/08.

117. On March 24, 2008, Bear Stearns and JPMorgan announced the Amended Proposal. Under the revised terms, each share of Bear Stearns common stock will be exchanged for 0.21753 of a share of JPMorgan common stock. This increased the value of JPMorgan's offer from $2 per share to $10 per share.

118. News reports uniformly noted that JPMorgan was pressured by shareholders and the legal actions into increasing its offer for Bear Stearns.

119. Plaintiffs filed meritorious lawsuits.

120. JPMorgan increased its bid from $2 to $10 per share. Plaintiffs conferred a benefit on Bear Stearns and the Individual Defendants by curing the Individual Defendants' breaches of their fiduciary duty and enabling the Company and the Bear Stearns board to avoid liability, in part, for accepting an inadequate price for Bear Stearns stock.

121. To date, Plaintiffs' counsel have not received any fees for the benefit they provided to Bear Stearns and the Individual Defendants. Nor has counsel been reimbursed for their out-of-pocket expenses related to securing that benefit. Accordingly, Plaintiffs' counsel is entitled to a fee in an amount to be determined by the Court or the trier of fact in addition to reimbursement of their actual out-of-pocket costs. The Individual Defendants and Bear Stearns should pay Plaintiffs' counsels' fees and reimburse their out-of-pocket expenses because it was in the first instance, Defendants' duties and obligation respectively to obtain an adequate price for Bear Stearns stock.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand preliminary and permanent inductive relief in their favor and in favor of the Class against Defendants as follows:

A. Declaring that this action is properly maintainable as a class action;

B. Ordering the Individual Defendants to carry out their fiduciary duties to Plaintiffs and the other members of the Class by announcing their intention to:

1) cooperate fully with any person or entity having a bona fide interest in proposing any transaction which would maximize shareholder value, including, but not limited to, a buyout of the public's equity interest by JPMorgan or an unaffiliated third party;
2) undertake an appropriate evaluation of Bear Stearns' worth in a potential sale; and
3) take all appropriate steps to enhance the value of the public's equity stake and Bear Stearns' value as an acquisition candidate;

C. Setting aside and rescinding the Share Exchange Agreement giving JPMorgan 39.5% ownership of Bear Stearns;

D. Directing that JPMorgan pay to Plaintiffs and the other members of the Class all damages caused to them and account for all profits and any special benefits obtained as a result of their unlawful conduct;

E. Preliminarily and permanently enjoining the Proposed Buyout;

F. Awarding Plaintiffs the costs and disbursements of this action, including a reasonable allowance for the fees and expenses of Plaintiffs' attorneys and experts, and

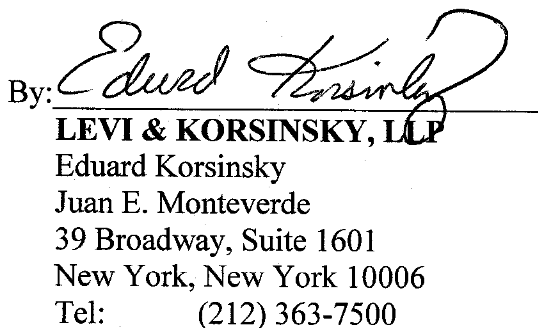
G. Declaring that Plaintiffs brought a meritorious claim that yielded a benefit to Bear Stearns' shareholders in the form of increased consideration for their shares;

H. Finding that as a direct result of their activities and the benefits brought about thereby, Plaintiffs' counsel are entitled to a fee, to be determined by the Court or the trier of fact, and to reimbursement of out-of-pocket expenses Plaintiffs' counsel incurred; and

I. Granting such other and further relief as this Court may deem just and proper.

Dated: March 27, 2008

Respectfully,

By: 

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