

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

IN RE MUTUAL FUNDS INVESTMENT LITIGATION

Excelsior Sub-track

MDL 1586

1:04-MD-15861-CCB

PROOF OF CLAIM AND RELEASE

I. GENERAL INSTRUCTIONS

- A. To recover as a member of the Class based on your claims in the Excelsior Sub-Track of the *In re Mutual Funds Investment Litigation* (MDL No. 1586), No. 1:04-MD-15861-CCB (the "Action"), you must complete this Proof of Claim and Release form ("Proof of Claim"). If you fail to submit a Proof of Claim by the deadline, your claim may be rejected and you may be precluded from receiving any recovery from the Settlement Fund created in connection with the proposed Settlements of the Action.
- B. Submission of this Proof of Claim, however, does not assure that you will share in the proceeds of the Settlement Fund created in this Action.
- C. YOU MUST COMPLETE AND SUBMIT YOUR PROOF OF CLAIM VIA MAIL **POSTMARKED ON OR BEFORE DECEMBER 8, 2010**, ADDRESSED TO THE CLAIMS ADMINISTRATOR AS FOLLOWS:

In re Mutual Funds Investment Litigation – Excelsior Sub-Track
c/o Rust Consulting, Inc.
Claims Administrator
P.O. Box 2306
Faribault, MN 55021-9306

If you are NOT a member of the Class, as defined in the Notice of Pendency and Proposed Settlements of Class and Derivative Actions, Motion for Attorneys' Fees and Expenses, and Settlement Hearing which you may have received in the mail or in the Long-Form Notice of Pendency and Proposed Settlements of Class and Derivative Actions, Motion for Attorneys' Fees and Expenses, and Settlement Hearing found at www.ExcelsiorMutualFundLitigation.com, DO NOT submit a Proof of Claim.

- D. If you are a member of the Class, you are bound by the terms of any judgments entered in the Action, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM FORM.

II. INSTRUCTIONS FOR CLAIMANT IDENTIFICATION SCHEDULE

- A. If you purchased or held shares in one or more of the mutual funds in the Excelsior Family of Funds advised or managed by U.S. Trust which Investor Lead Counsel's expert found to have been potentially damaged as a result of market-timing and/or late trading (*i.e.*, Excelsior Blended Equity Fund; Excelsior Large Cap Growth Fund; Excelsior Small Cap Fund; Excelsior Value and Restructuring Fund; Excelsior Energy and Natural Resources Fund; Excelsior Real Estate Fund; Excelsior Short-Term Government Securities Fund; and Excelsior Intermediate Term Tax-Exempt Fund (collectively, the "Excelsior Settlement Funds")) during the period from December 12, 1998 to November 16, 2003, inclusive (the "Class Period"), and held the share(s) in your name, you are the beneficial owner as well as the record owner. If, however, the share(s) were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner and the third party is the record owner.¹
- B. Use Part I of this form entitled "Claimant Identification" to identify each owner of record ("nominee"), if different from the beneficial owner of the shares of the Excelsior Settlement Funds which form the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S), OR THE LEGAL REPRESENTATIVE OF SUCH OWNER(S) OF THE SHARES OF THE EXCELSIOR SETTLEMENT FUNDS UPON WHICH THIS CLAIM IS BASED.**
- C. All joint purchasers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of persons or entities represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in the rejection of your claim.

III. INSTRUCTIONS FOR SCHEDULE OF TRANSACTIONS

- A. In the space provided below, supply all required details of your holding(s) in the Excelsior Settlement Funds. If you need more space, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.
- B. Please provide the requested information with respect to **all** of your holdings in the Excelsior Settlement Funds during the period from December 12, 1998 to November 16, 2003, inclusive. Failure to report all such information may result in the rejection of your claim.
- C. You will also need to submit supporting documentation concerning the number of shares you held in each of the Excelsior Settlement Funds during the relevant calendar years. In most cases, your year-end mutual fund statements from the relevant 1998-2003 period will be sufficient. Failure to provide this documentation could delay verification of your claim or result in the rejection of your claim. If you did not hold any shares in a particular Fund during a particular calendar year, you do not need to submit documentation of your lack of holdings.
- D. The requests are designed to provide the minimum amount of information necessary to process the most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your losses. In some cases where the Claims Administrator cannot perform the calculation accurately or at a reasonable cost to the Class with the information provided, the Claims Administrator may condition acceptance of the claim upon the production of additional information and/or the hiring of an accounting expert at the Claimant's cost.

¹ Investor Lead Counsel brought the Action, described herein, to represent and pursue the claims of all holders of the Excelsior Funds alleged to have been damaged by market-timing or late trading during the Class Period. In connection with the settlement, Investor Lead Counsel hired an expert to examine the trading records of the Excelsior Funds and to investigate which of the Excelsior Funds, if any, and thereby their holders, had potentially been affected as a result of market-timing and/or late trading.

**MUST BE POSTMARKED
ON OR BEFORE
DECEMBER 8, 2010**

EXCR

FOR OFFICIAL USE ONLY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
*In re Mutual Funds Investment Litigation -
Excelsior Sub-Track*
No. 1:04-MD-15861-CCB

PROOF OF CLAIM AND RELEASE

PLEASE TYPE OR PRINT USING BLACK OR BLUE INK.

PART I. CLAIMANT IDENTIFICATION - (COMPLETE EITHER SECTION A OR B AND THEN PROCEED TO C. PLEASE TYPE OR PRINT.)

A. Complete this Section ONLY if the Beneficial Owner is an individual, joint, or IRA account. Otherwise, proceed to B

Last Name (Beneficial Owner)	First Name (Beneficial Owner)
<input type="text"/>	<input type="text"/>
Last Name (Joint Beneficial Owner, if applicable)	First Name (Joint Beneficial Owner)
<input type="text"/>	<input type="text"/>
Name of IRA Custodian, if applicable	
<input type="text"/>	

If this account is an IRA, and if you would like any check that you MAY be eligible to receive made payable to the IRA account, please include "IRA" in the "Last Name" box above (e.g., Jones IRA).

B. Complete this Section ONLY if the Beneficial Owner is an Entity; i.e., corporation, trust, estate, etc. Then, proceed to C.

Entity Name
<input type="text"/>
Name of Representative, if applicable (Executor, administrator, trustee, c/o, etc.)
<input type="text"/>

C. Account/Mailing Information:

Specify one of the following:		
<input type="checkbox"/> Individual(s)	<input type="checkbox"/> Joint	<input type="checkbox"/> Corporation
<input type="checkbox"/> UGMA Custodian	<input type="checkbox"/> IRA	<input type="checkbox"/> Partnership
<input type="checkbox"/> Estate	<input type="checkbox"/> Trust	
<input type="checkbox"/> Other: <input type="text"/>		
Number and Street and P.O. Box		
<input type="text"/>		
City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Foreign Province and Postal Code	Foreign Country	
<input type="text"/>	<input type="text"/>	
Telephone Number (Day)	Telephone Number (Evening)	
<input type="text"/>	<input type="text"/>	
E-mail Address	Account Number	
<input type="text"/>	<input type="text"/>	
Enter Taxpayer Identification Number below for the Beneficial Owner(s).		
Social Security No. (for individuals)	or	Taxpayer Identification No.
<input type="text"/>		<input type="text"/>



QUESTIONS? VISIT www.ExcelsiorMutualFundLitigation.com OR CALL 1-877-740-7001



PART II: HOLDINGS IN THE EXCELSIOR SETTLEMENT FUNDS

Please report in the Table below the number of shares you held in each of the Excelsior Settlement Funds listed below at (or around) the end of each calendar year (which should be contained in your year-end mutual fund statements from the relevant 1998-2003 period). If you held shares in more than one account, please complete a separate Table for each such account.

Account Number:

Name of Account Holder:

Account Held at : Excelsior or Elsewhere (Name):

Excelsior Settlement Fund ¹	Number of Shares Held at (or around) December 31, 1998	Number of Shares Held at (or around) December 31, 1999	Number of Shares Held at (or around) December 31, 2000	Number of Shares Held at (or around) December 31, 2001	Number of Shares Held at (or around) December 31, 2002	Number of Shares Held at (or around) December 31, 2003
Excelsior Blended Equity Fund						
Excelsior Large Cap Growth Fund						
Excelsior Small Cap Fund						
Excelsior Value and Restructuring Fund						
Excelsior Energy and Natural Resources Fund						
Excelsior Real Estate Fund						
Excelsior Short-Term Government Securities Fund						
Excelsior Intermediate Term Tax-Exempt Fund						

¹ If you own more than one class of stock in any Excelsior Settlement Fund, sum the amounts for the classes.

YOU MUST READ THE RELEASE AND SIGN THE CERTIFICATION SECTION OF THE PROOF OF CLAIM FORM ON PAGES 3-4. FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.

If you require additional space, attach extra tables in the same format as above. Copies of broker's confirmations or other documentation evidencing your holdings in the Excelsior Settlement Funds during the Class Period should be attached.



PART III: SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGEMENTS

1. I (We) submit this Proof of Claim and Release under the terms of the Stipulations and Agreements of Settlement described in the Long-Form Notice of Pendency and Proposed Settlements of Class and Derivative Actions, Motion for Attorneys' Fees and Expenses, and Settlement Hearing (the "Long-Form Notice"). I (We) also submit to the jurisdiction of the United States District Court for the District of Maryland with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein and any Final Judgments and Orders which may be entered in the Action. I (We) further acknowledge that I (we) am (are) bound by and subject to the terms of any Final Judgments and Orders that may be entered in the Action.
2. I (We) agree to furnish additional information to the Claims Administrator to support this claim if required to do so.
3. I (We) am (are) a Class Member as defined in the Long-Form Notice and am (are) not one of the persons or entities excluded from the Class (*i.e.*, Settling Entities², members of the immediate family of each of the individual defendants, any subsidiary, affiliate, director, officer, or employee of any of the Settling Entities, any entity in which any excluded person or entity has a controlling interest, or the legal representatives, heirs, successors and assigns of any excluded person or entity), and have not requested to be excluded from the Class.

PART IV: DEFINITIONS AND RELEASE

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, relinquish, discharge and release all "Released Claims" against all "Released Persons," including "Unknown Claims," as those terms are defined and contained in the Stipulation of Settlement dated June 29, 2009 entered into between plaintiffs and the Excelsior Funds Trust, Excelsior Funds, Inc., Excelsior Tax-Exempt Funds, Inc., Donald L. Campbell, Rodman L. Drake, Joseph H. Dugan, Wolfe J. Frankl, Ralph E. Gomory, Morrill Melton Hall, Jr., Roger M. Lynch, W. Wallace McDowell, Jr., Jonathan Piel, Robert A. Robinson, Alfred C. Tannachion, Frederick S. Wonham, Stephen C. Hassenfelt, James L. Bailey, and Brian F. Schmidt, The Charles Schwab Corporation, Charles Schwab & Co., Inc., U.S. Trust Corporation, U.S. Trust Company, N.A. (formerly known as U.S. Trust Company, National Association), and the United States Trust Company of New York.
2. I (We) also hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, relinquish, discharge and release: (i) all "Released Claims" against the "Bear Stearns Released Parties" including "Unknown Claims," as those terms are defined and contained in the Excelsior/Bear Stearns Severed Agreement and Stipulation of Settlement dated January 15, 2010 entered into between plaintiffs and Bear, Stearns & Co. Inc., Bear, Stearns Securities Corp, and The Bear Stearns Companies Inc., currently known as J.P. Morgan Securities Inc., J.P. Morgan Clearing Corp. and The Bear Stearns Companies LLC, respectively; (ii) all "Released Claims" against the "Canary Released Parties" including "Unknown Claims," as those terms are defined and contained in the Excelsior/Canary Severed Agreement and Stipulation of Settlement dated January 15, 2010 entered into between plaintiffs and Canary Capital Partners, LLC, Canary Capital Partners, Ltd., Canary Investment Management, LLC, and Edward Stern; and (iii) all "Released Claims" against the "Bank of America Released Parties" including "Unknown Claims," as those terms are defined and contained in the Excelsior/BAS Severed Agreement and Stipulation of Settlement dated as of January 28, 2010 entered into between plaintiffs and Banc of America Securities LLC. The foregoing settlement agreements can be found by visiting the settlement website, www.ExcelsiorMutualFundLitigation.com. In addition, for more information regarding the claims released by the Settlements, please visit the settlement website and click on the "Releases" tab.
3. This release shall be of no force or effect unless and until the Court gives final approval to the Settlements and their respective Effective Dates occur.

PART V: REPRESENTATIONS

1. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.
2. I (We) hereby warrant and represent that I (we) have included information about all of my (our) holdings in the Excelsior Settlement Funds during the Class Period and the number of shares of such Excelsior Settlement Funds held by me (us) at the end of each calendar year during the Class Period (1998-2003).
3. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a) (1) (c) of the Internal Revenue Code.

NOTE: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

² The term "Settling Entities" is defined in the Preliminary Order for Notice and Hearing in Connection with Settlement Proceedings in the Excelsior Sub-Track as: (i) Excelsior Funds Trust, Excelsior Funds, Inc., Excelsior Tax-Exempt Funds, Inc., Donald L. Campbell, Rodman L. Drake, Joseph H. Dugan, Wolfe J. Frankl, Ralph E. Gomory, Morrill Melton Hall, Jr., Roger M. Lynch, W. Wallace McDowell, Jr., Jonathan Piel, Robert A. Robinson, Alfred C. Tannachion, Frederick S. Wonham, Stephen C. Hassenfelt, James L. Bailey, and Brian F. Schmidt, The Charles Schwab Corporation, Charles Schwab & Co., Inc., U.S. Trust Corporation, U.S. Trust Company, N.A. (formerly known as U.S. Trust Company, National Association), and the United States Trust Company of New York (collectively, the "Excelsior Settling Entities"); (ii) Banc of America Securities LLC ("BAS"); (iii) Bear, Stearns & Co. Inc. (n/k/a J.P. Morgan Securities Inc.), Bear, Stearns Securities Corp. (n/k/a J.P. Morgan Clearing Corp.), and The Bear Stearns Companies Inc. (n/k/a The Bear Stearns Companies LLC) (collectively, the "Bear Stearns Defendants"); and (iv) Canary Capital Partners, LLC, Canary Capital Partners, Ltd., Canary Investment Management, LLC, and Edward J. Stern (collectively, the "Canary Defendants").





I declare under penalty of perjury under the laws of the State of Maryland and the United States of America that the foregoing information supplied by the undersigned is true and correct and that this Proof of Claim form was executed

this ____ day of _____, _____ in _____, _____, _____
(Month) (Year) (City, State, Country)

(Sign your name here)

(Sign your name here)

(Type or print your name here)

(Type or print your name here)

(Capacity of persons signing, e.g., Beneficial Purchaser, Executor or Administrator)

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**ACCURATE CLAIMS PROCESSING TAKES A
 SIGNIFICANT AMOUNT OF TIME
 THANK YOU FOR YOUR PATIENCE**

REMINDER CHECKLIST

1. Please read and sign the certification section of the Proof of Claim and Release form on pages 3-4.
2. If this claim is being made on behalf of joint claimants, both must sign.
3. Remember to attach supporting documentation, if available.
4. Do not send original stock certificates.
5. Keep a copy of your Proof of Claim and Release form and all documents submitted for your records.
6. If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
7. If you move, please send the Claims Administrator your new address.

**THESE FORMS AND YOUR SUPPORTING DOCUMENTATION
 MUST BE POSTMARKED NO LATER THAN DECEMBER 8, 2010.**

