

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE CREDIT DEFAULT SWAPS  
ANTITRUST LITIGATION

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: Master Docket No. 13 MD 2476(DLC)  
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This Document Relates To: All Actions

**OBJECTIONS OF SILVER POINT CAPITAL, L.P., AND RELATED ENTITIES TO  
PROPOSED CLASS ACTION SETTLEMENT**

Silver Point Capital, L.P. (“**Silver Point**”) is the investment manager for the following entities that are “Settlement Class Members” within the meaning of the Class Notice and the proposed settlement agreements in the above-captioned matter: Silver Point Capital Fund, L.P., Silver Point Capital Offshore Master Fund, L.P., and Silver Point Capital Offshore Ltd. (collectively, the “**Funds**”).<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 23(e)(5), Silver Point objects to the Court’s approval of the settlement agreements because they are unfair, unreasonable, and inadequate for the reasons set forth herein.

**First**, the Class Notice and opt out/objection procedures do not allow the Settlement Class Members, including Silver Point and the Funds, sufficient opportunity to assess their rights and the adequacy of the settlement agreements before the deadline to opt out. The class website purports to allow putative Settlement Class Members to access information regarding their Covered Transactions. However, this information was not available on the website until on or about January 29, 2016. The opt out date is February 29, 2016. This is an extremely complicated case, and many of the key documents at issue are under seal. Indeed, Class Counsel’s briefing in

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<sup>1</sup> The Funds are Settlement Class Members. They have received notice from the Class Plaintiffs identifying them as Settlement Class Members, and Silver Point has accessed the information maintained on the settlement class website to ascertain which Funds’ CDS trades are captured on the website. The website lists thousands of CDS trades

support of its fee award and the class settlement stress the complexities of the case. The Funds were involved in thousands of CDS transactions, and simply collecting data regarding these trades was an enormous, time-consuming task. Allowing Settlement Class Members a mere 30 days to assess their rights and the adequacy of the settlement agreements is unreasonable, unfair, and inadequate. Silver Point requests that the Court deny approval of the settlement agreements unless the date to opt out is extended at least four weeks, to March 27, 2016.

**Second**, according to the class website, Plaintiffs' Counsel and their experts have worked with the Settlement Administrator to identify and compile the Covered Transactions applicable to each Settlement Class Member, including the Funds. The website also allows Settlement Class Members to review the list of Covered Transactions identified by Plaintiffs' Counsel and the Settlement Administrator. These are the transactions upon which a Settlement Class Members' recovery is based, and if a transaction is not deemed by the Settlement Administrator to be a Covered Transaction, a Class Member cannot recover for that transaction.

According to the Class Notice, the Settlement Agreement allows Class Members to challenge the exclusion of transactions, but only after this Court has already approved the Class Action Settlements, and only after the deadline to opt out of the settlements has passed. Moreover,

the Settlement Administrator's determination of which transactions are Covered Transactions and

The settlement website fails to include many of the Funds' transactions that should be

Settlement Administrator will correct the problem after the approval of the Settlement Agreement, and if the Settlement Administrator will not correct the problem, Silver Point will have no recourse.

**Third**, the allocations between the class members are unfair and unreasonable. In summary, the definition of “Covered Notional” peddles a fiction that the bid-ask spreads on various CDS trading strategies would have been equal for many trades where this certainly would not have been the case in reality. For example, a class member who engaged in index arbitrage by buying CDS protection on an index and selling CDS protection on that index’s constituents would not, in practice, have been charged the full bid-ask spread on both legs of that transaction, but under the plan of allocation that class member would be given credit as if it had. This example, among others, seems to be the result of a process whereby the Defendants’ most active clients in CDS (who likely received discounted bid-ask spreads simply by virtue of their frequent use of the product) are disproportionately benefiting from the settlement at the expense of smaller consumers of CDS (who, in reality, would have been the proportionately larger beneficiaries of a transparent and liquid exchange). Thus, Silver Point objects on the grounds that the plan for distribution of settlement funds should be adjusted so that the damage awards reflect the actual inappropriate bid-ask spreads incurred by each class member’s trading strategies, rather than a fictional presumption of equal spreads for all strategies. Absent this adjustment, the settlement agreements are unfair and unreasonable.

**Fourth**, the Funds object to the extent the settlement agreements call for the release of any claims against the Defendants based on post-September 2015 trades.

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For the reasons stated above, Silver Point and the Funds object to the Court’s approval of the settlement agreements. Silver Point intends to appear at the April 15, 2016, Fairness Hearing

to discuss its objections to the settlement agreements in further detail. Silver Point reserves its right to supplement this Objection prior to the Fairness Hearing, including but not limited to offering new grounds of objections and to providing further arguments and support for the objections contained herein.

Dated: February 29, 2016

/s/ William T. Reid, IV  
William T. Reid, IV  
REID COLLINS & TSAI LLP  
810 Seventh Ave, Suite 410  
New York, NY 10019  
(212) 344-5200  
wreid@rctlegal.com

#### **CERTIFICATE OF SERVICE**

I am a partner at Reid Collins & Tsai LLP. I certify that I caused a copy of the foregoing document to be sent via U.S. Mail to the following addresses, per the class notice:

Court Clerk of Court  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

Daniel L. Brockett  
Quinn Emanuel Urquhart & Sullivan, LLP  
51 Madison Avenue, 22nd Floor  
New York, New York 10010-1601

/s/ J. Benjamin King  
J. Benjamin King