

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

BARBARA HANDSCHU, RALPH DIGIA, ALEX
MCKEIVER, SHABA OM, CURTIS M. POWELL,
ABBIE HOFFMAN, MARK A. SEGAL, MICHAEL
ZUMOFF, KENNETH THOMAS, ROBERT RUSCH,
ANNETTE T. RUBENSTEIN, MICKEY SHERIDAN,
JOE SUCHER, STEVEN FISCHLER, HOWARD
BLATT, ELLIE BENZONI, on behalf of
themselves and all others similarly
situated,

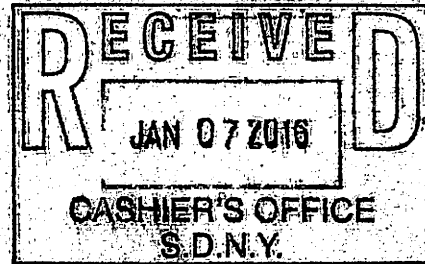
71 Civ. 2203 (CSH)

Plaintiffs,

-against-

SPECIAL SERVICES DIVISION, a/k/a
Bureau of Special Services; WILLIAM
H.T. SMITH; ARTHUR GRUBERT; MICHAEL
WILLIS; WILLIAM KNAPP; PATRICK
MURPHY; POLICE DEPARTMENT OF THE
CITY OF NEW YORK; JOHN V. LINDSAY;
and various unknown employees of the
Police Department acting as
undercover operators and informers,

Defendants.



MEMORANDUM OF PLAINTIFF CLASS COUNSEL
IN SUPPORT OF MOTION FOR APPROVAL OF SETTLEMENT

2016 JAN -7 AM 10:37
CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS UNIT

TABLE OF CONTENTS

	<u>Page</u>
PRELIMINARY STATEMENT	1
BACKGROUND	2
a) History of This Action	2
b) Origin of Proposed Further Modifications	4
c) Goals of Settlement Discussions with Defendants	12
DISCUSSION	14
I. SETTLEMENT OF THE MOTION THROUGH MODIFICATION OF THE HANDSCHU GUIDELINES REQUIRES NOTICE TO THE CLASS AND A HEARING	14
II THE PROPOSED SETTLEMENT OF THE MOTION FURTHER MODIFYING THE MODIFIED HANDSCHU GUIDELINES IS FAIR, REASONABLE AND ADEQUATE	17
CONCLUSION	22

PRELIMINARY STATEMENT

Counsel for the Plaintiff Class respectfully submit this memorandum in support of their motion pursuant to FRCP 23(e) for approval of the Stipulation of Settlement resolving the Motion of the plaintiff class filed February 4, 2013, which sought injunctive and related relief. The Stipulation of Settlement provides for modification of the "Modified Handschu Guidelines". The proposed modifications are the product of extensive negotiation between the representatives of the plaintiff class and the defendants, as outlined in the accompanying Declaration of Jethro M. Eisenstein. These proposed modifications also have the support of the plaintiffs and their counsel in Hamid Hassan Raza, et al. v. City of New York et al., 13-CV-3448 (PKC)(JMA) (hereinafter "Raza"), an action pending in the United States District Court for the Eastern District of New York.

Under the procedure set forth in FRCP 23(e), the proposed Stipulation of Settlement requires that notice be given in a reasonable manner to all class members and that the Court convene a hearing to allow class members to comment. For the reasons set forth in this memorandum and

in the accompanying Declaration of Jethro M. Eisenstein, class counsel recommend the Proposed Stipulation of Settlement for approval by the Court.

BACKGROUND

a) History of This Action

The history of this action is well known to this Court. This case was commenced as a class action in 1971. The representative plaintiffs claimed that the defendant New York City Police Department ("NYPD") conducted surveillance, infiltration and dossier collection regarding organizations and individuals who had "expressed criticism of social conditions or governmental policies or who espoused unorthodox or dissenting beliefs, and had engaged in only lawful political activity in furtherance thereof." (Complaint, ¶79). The organizations claimed in the complaint to have been targeted by the NYPD included political and religious organizations (Complaint ¶¶72-73).

In its Memorandum Opinion and Order dated May 24, 1979, the Court certified a plaintiff class, defined as follows:

"All individuals resident in the City of New York, and all other persons

who are physically present in the City of New York, and all organizations located or operating in the City of New York, who engage in or have engaged in lawful political, religious, educational or social activities and who, as a result of these activities, have been, are now or hereafter may be subjected to or threatened by infiltration, physical and verbal coercion, photographic, electronic and physical surveillance, provocation of violence, recruitment to act as police informers and dossier collection and dissemination by defendants and their agents."

605 F.Supp. 1384, 1388 (S.D.N.Y. 1985) (*Handschu* II).

Based on a significant factual record that had been developed about the activities of the NYPD, and after lengthy negotiations, a settlement was reached with two major components: (1) provision for individuals and groups to obtain copies of files maintained about them by the NYPD; and (2) a set of rules ("the Handschu Guidelines") embodied in a consent decree governing investigation of political activity by the NYPD.

Following a fairness hearing, at which proponents of and objectors to the settlement were heard, the settlement was approved and the consent decree entered (605 F.Supp. 1384 (S.D.N.Y. 1985)). Approval of the settlement was affirmed on appeal, 787 F.2d 828 (2d Cir. 1986).

The Intelligence Division of the NYPD functioned under the Handschu Guidelines from 1985 through 2002. Following the attack on the World Trade Center on September 11, 2001, the NYPD moved for modification of the Handschu Guidelines, claiming that the dangers to New York City from acts of terrorism made the Handschu Guidelines unduly restrictive.

Over strenuous opposition from Class Counsel and members of the plaintiff class, the Court approved modification of the guidelines, 273 F.Supp.2d 327 (S.D.N.Y. 2003) (*Handschu IV*) and 2003 WL 21961367 (S.D.N.Y., April 7, 2003). After additional litigation, these Modified Handschu Guidelines were incorporated in the consent decree (288 F.Supp.2d 411 (S.D.N.Y. 2003) (*Handschu V*))¹ and the Court confirmed that Class Counsel are empowered to "[inquire] into police surveillance practices" and "to challenge NYPD policies resulting in non-constitutional violations of the [Modified Handschu] Guidelines," 679 F.Supp.2d 488, 497 (S.D.N.Y. 2010) (*Handschu X*).

b) Origin of Proposed Further Modifications

Beginning in August 2011, the Associated Press and independent journalist Leonard Levitt published a series of

¹ This court has noted ". . . the 'Modified Handschu Guidelines' consist of the appendices of *Handschu IV* [273 F.Supp.2d 327 at 349-351] and *Handschu V* [288 F.Supp.2d 411 at 420-431] read together." 2006 WL 1716919 at 1 (*Handschu VI*).

articles, based on interviews said to have been conducted with more than forty present and former members of the NYPD, that described an NYPD policy of using undercover officers and confidential informants to gather information about political activity in circumstances where there was no indication of criminal activity. According to these articles, the operations described targeted places of association and worship in the Muslim communities in New York, including mosques, social gathering places and student organizations based on college campuses.

The articles, as well as NYPD documents published in conjunction with them, identified the command that conducted these operations as the "Demographic Unit", and strongly suggested that the NYPD retained records of these surveillance activities as a matter of policy. In the view of class counsel, the retention of such records was a violation of the Modified Handschu Guidelines, which permit the NYPD to visit places that are open to the public on the same terms and conditions as members of the public generally, but bar retention of information obtained from such visits "unless it relates to potential unlawful or terrorist activity." Modified Handschu Guidelines §VIII(A)(2). *Handschu V*, 288 F.Supp.2d at 430.

Because Class Counsel are the only persons empowered to bring to the Court's attention policies of the NYPD that violate the Modified Handschu Guidelines,² it was the duty of Class Counsel to investigate the assertions made in the published articles, to ascertain whether there were NYPD policies in place that violated the Modified Handschu Guidelines. To that end, on October 25, 2011, Class Counsel made a motion for discovery.

In response to the motion, the NYPD proposed to provide voluntary discovery about the Demographic Unit in the form of a sampling of the documents generated by the Demographics Unit and a deposition of NYPD Assistant Chief Thomas Galati³, at which Class Counsel would be permitted to question Chief Galati about the operation of the unit. This discovery was completed in the Fall of 2012.

The discovery provided by the NYPD led Class Counsel to conclude that as a matter of policy, the NYPD in fact was maintaining records based on visits to public places even when there was no evidence of crime or terrorism. Based on this conclusion, as well as the evidence indicative of additional violations of the Modified

² See 2008 WL 515695,*5 (S.D.N.Y. February 27, 2008)(*Handschu IX*).

³ A redacted copy of Chief Galati's Deposition is Exhibit 4 to the February 4, 2013 motion and is available on line at [http://www.nyclu.org/files/releases/Handschu_Exhibit4\(GalatiEBTredacted\)2.4.13.pdf](http://www.nyclu.org/files/releases/Handschu_Exhibit4(GalatiEBTredacted)2.4.13.pdf)

Handschu Guidelines that is catalogued in the Declaration of Professor Paul G. Chevigny dated January 22, 2013⁴, Class Counsel moved on February 4, 2013 for injunctive relief and for the appointment of a monitor to supervise the activities of the Intelligence Division⁵.

The NYPD opposed the motion and denied it was violating the Handschu Guidelines⁶. It specifically questioned the probative value of the documents that Class Counsel had submitted in support of the motion, none of which was an "investigative statement", the document in which the NYPD sets forth the facts and circumstance or predicate warranting an investigation.

In a Memorandum dated August 29, 2013 this Court observed that

". . . the NYPD has succeeded in identifying the investigative statement as the best evidence, perhaps the only probative evidence of whether a particular investigation was commenced in compliance with the Handschu Guidelines . . . presumably each investigation statement describes the level of investigation proposed, the target(s) or subject(s) of the investigation and the specific 'facts

⁴ Prof. Chevigny's Declaration dated January 22, 2013 is available online at http://www.nyclu.org/files/releases/PGC_DEC_FINAL.pdf

⁵ The February 4, 2013 motion and its supporting papers is available online at <http://www.nyclu.org/news/court-filing-seeks-end-nypd-surveillance-of-muslim-community>

⁶ The NYPD's Opposition papers to the motion and the Class' Reply papers are available online at <http://www.nyclu.org/news/argument-federal-judge-end-nypd-surveillance-of-muslim-community-advocates-call-court-appoint-m>

and circumstances that warrant an investigation.' Those facts and circumstances either satisfy the relevant Handschu Guideline requirement or they do not - which is to say, the particular investigation in question either complies with the Guidelines or it does not.

It would seem difficult, if not impossible, to evaluate a particular investigation's compliance with the Guidelines without examining the investigative statement purporting to justify the investigation: a difficulty shared by skeptics such as Class Counsel, and a neutral disinterested person such as a District Judge."

2013 WL 4767815 (S.D.N.Y., August 29, 2013). The Court directed that Class Counsel and Corporation Counsel confer about how discovery into and proof of the investigation statements might be arranged. Id.

After hearing oral argument on October 1, 2013, the Court ruled that the motion of the Plaintiff Class on behalf of the Muslim community "presents issues worthy of further litigation which entitle Class Counsel to further discovery in aid of their claims." 2014 WL 407103,*4 (S.D.N.Y., January 30, 2014). The Court noted that the parties' attorneys had discussed a protocol for disclosure of investigation statements in an exchange of letters, and suggested that the protocol should be implemented.

On June 18, 2013, during the proceedings in Handschu described above, the Raza case was commenced in the United States District Court for the Eastern District of New York. As summarized by Judge Pamela Chen in her memorandum and order dated November 22, 2013,

"Plaintiffs [in Raza] are three Muslim individuals, two mosques and a non-profit Muslim organization. They allege that defendants have violated, and continue to violate, their constitutional rights through unlawful, 'suspicionless' surveillance and investigation conducted by the New York Police Department ("NYPD") pursuant to its purported 'Muslim surveillance program.' . . . Plaintiffs' complaint sets forth four causes of action: (1) violation of the Equal Protection Clause of the Fourteenth Amendment; (2) violation of the Free Exercise Clause of the First Amendment; (3) violation of the Establishment Clause of the First Amendment; and (4) violation of the right to freely exercise their religion under Article 1, Section 3 of the New York State Constitution."

Raza v. City of New York, 998 F.Supp.2d 70, 73 (E.D.N.Y. 2013).

In the November 22, 2013 Memorandum and Order, Judge Chen granted in part the Raza plaintiffs' motion for expedited discovery. As a result of this Court's decision and the decision of Judge Chen, discovery proceeded on separate tracks in Handschu and in Raza, with steps being

taken for disclosure of certain investigative statements, which the NYPD had identified as the documents setting forth the factual basis for instituting or continuing each investigation.

On February 4, 2014, as these separate discovery processes were underway, Class Counsel and the attorneys for the plaintiffs in Raza jointly wrote to Zachary Carter, the Corporation Counsel who took office after Bill DeBlasio became Mayor on January 1, 2014. Class counsel and the attorneys for the Raza plaintiffs suggested a meeting to discuss the possibility of settling the Raza action and the Handschu motion. An initial meeting with Corporation Counsel Carter and representatives of the NYPD took place on April 17, 2014, while discovery in both cases was ongoing. After the initial meeting, all parties agreed to continue discussions.

In the meantime, extensive discovery and discovery litigation proceeded in the Raza case. Among other rulings, on July 9, 2014, the court in Raza ordered defendants in that case to provide plaintiffs with certain electronically-stored information of field level NYPD personnel, including undercover officers and the "handlers" of undercover officers and confidential informants involved in any investigation of the Raza plaintiffs. The Raza

defendants sought reconsideration of that decision on August 15, 2014.

During the course of settlement discussions, the NYPD agreed to make certain additional investigation statements available to counsel in Raza and Class Counsel in Handschu as part of the settlement process. The NYPD also agreed to permit both Raza counsel and Class Counsel to examine investigation statements that had previously been made available in either case. On August 15, 2014, the parties moved to stay discovery in the Raza and Handschu cases and enter into a confidentiality agreement, which provided that disclosure of the investigative statements would be to counsel only, and that nothing disclosed could be used in subsequent litigation in the event a settlement was not achieved. The confidentiality agreement covered all discussions between the parties. This Court ordered compliance with the confidentiality agreement on August 20, 2014.

Between September 17, 2014 and June 29, 2015, there were more than ten meetings between Class Counsel, counsel for the Raza plaintiff and representatives of the NYPD. Senior operational staff from the NYPD Intelligence Bureau attended many of these meetings. Counsel for the plaintiffs in Raza had the opportunity to describe to these

senior NYPD officials the profoundly negative impact of police surveillance activities on individuals and institutions in the Muslim communities in New York.

In addition, senior staff of the Intelligence Bureau described to Class Counsel and counsel for the Raza plaintiffs, in detail, the processes currently employed by the Intelligence Bureau to gather information and to determine whether investigation should be initiated, continued, expanded or terminated. The process they described entailed extensive review and scrutiny of the facts on which investigations were based, and revealed a collaborative decision-making process involving numerous civilian analysts, lawyers and senior members of the NYPD.

Once this exchange of information was completed, the parties began discussions with a view to achieving a settlement of the Raza action and the Handschu motion.

c) Goals of Settlement Discussions with Defendants

The goals of Class Counsel and counsel for the plaintiffs in Raza in negotiations with defendants, summarized in the accompanying Declaration of Jethro Eisenstein, were based on the Raza plaintiffs' views, on consultation with other individuals and groups within the plaintiff class, on what counsel had learned through

discovery as well as from published articles and documents and on what had been conveyed by the NYPD in counsel's discussions with the NYPD and their attorneys. The goals were:

- To tighten standards for initiation of investigations.
- To limit use of intrusive investigative techniques in religious institutions.
- To reinstitute civilian, non-NYPD participation in the process of deciding whether investigations should be initiated, continued or ended.
- To establish time limits for investigations.
- To formalize and institutionalize the collaborative decision-making process that had been described to Class Counsel and Raza counsel by the NYPD.

It was understood that the changes reflecting these goals, to the extent Class Counsel and the Raza counsel were able to achieve them, would be memorialized in the Modified Handschu Guidelines, the existing set of rules governing NYPD investigation of political activity.

As described in the Declaration of Jethro Eisenstein, numerous proposals and counterproposals were presented in the course of the negotiations. Class Counsel and Raza counsel did not get everything that had been sought, but the settlement did address each of the goals identified above, and in the view of counsel in both cases, what was achieved is meaningful protection for the members of the plaintiff class.

DISCUSSION

I. SETTLEMENT OF THE MOTION THROUGH MODIFICATION OF THE HANDSCHU GUIDELINES REQUIRES NOTICE TO THE CLASS AND A HEARING

A court may approve a proposed settlement, voluntary dismissal, or compromise of the claims, issues or defenses of a certified class that would bind class members, only upon a finding that the proposed settlement is fair, reasonable, and adequate, made after a hearing on notice to the class. Fed. R. Civ. P. 23(e) provides in pertinent part:

(e) Settlement, Voluntary Dismissal, or Compromise. The claims, issues or defenses of a certified class may be settled, voluntary dismissed, or compromised only with the court's approval. The following procedures apply

to a proposed settlement, voluntary dismissal or compromise:

(1) the court must direct notice in a reasonable manner to all class members who would be bound by the proposal.

(2) If the proposal would bind class members, the court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.

(3) The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

It has long been common practice for courts to hold so-called "fairness" hearings concerning proposed settlements of class actions, but Rule 23(e) did not explicitly require such a hearing until its amendment in 2003. The 2003 amendment removed the discretion that a court might have had to dispense with a hearing. "The language of Rule 23(e) now 'mandates the already common practice' of conducting a fairness hearing prior to approval of any settlement, voluntary dismissal or compromise." Moore's Federal Practice 3d, Section 23.165[1], citing Fed. R. Civ. P. 23, Advisory Committee Note to 2003 Amendments. (emphasis added).

As required by FRCP 23(e)(3), the proposed Stipulation of Settlement and the proposed amendments to the Modified Handschu Guidelines are attached to the Declaration of

Jethro M. Eisenstein submitted in support of this motion. The Modified Handschu Guidelines are the core of the Consent Decree in this action (See Handschu v. Special Services Division, Appendix A, paragraph 1, 605 F.Supp. 1384, 1417 (S.D.N.Y. 1985) (*Handschu II*)) and a change in their terms is a change to the Consent Decree.

While proposed consent decrees settling class actions generally come before a court for approval when the case as a whole is yet to be resolved, modification of an existing consent decree must similarly be considered at a hearing on notice to the class. Dillard v. Chilton County Commissioners, 2008 WL 912753 (USDC MD Ala, N. Div. 4/3/08) ("Before addressing the merits of approving the amendment to the consent decree, the court must ensure that all members of the plaintiff class of black voters have been informed of the proposed amendment and have had the opportunity to voice any objections. Fed.R.Civ.P. 23(e)"); Wyatt By and Through Rawlins v. Horsley, 793 F.Supp. 1053, 1055, n. 3 (M.D.Ala 1991).

At the time of the original settlement in this case, notice to the class was given by publication, paid for by the defendants, in the New York Daily News, the New York Times, El Diario and the Amsterdam News. Order dated February 9, 1981. We respectfully request that the Court

provide for such notice now, supplemented by publication in the following newspapers, whose target audience is members of Muslim communities in New York:

- Pakistan News (Urdu)
- Pakistan Post (Urdu)
- Weekly Thikana (Bengali)
- India Abroad (English and Gujarati)

In addition, we request that the Court further provide that notice be given by dissemination on the internet through websites that are viewed by members of the class, including those of the City of New York and the New York Civil Liberties Union. We stand ready to make additional suggestions to the Court with respect to these means of giving notice.

**II THE PROPOSED SETTLEMENT OF THE MOTION FURTHER
MODIFYING THE MODIFIED HANDSCHU GUIDELINES
IS FAIR, REASONABLE AND ADEQUATE**

FRCP Rule 23 requires the Court to scrutinize the settlement to ensure its fairness, adequacy and reasonableness. Handschu v. Special Services Division, 605 F.Supp. 1384, 1393 (S.D.N.Y. 1985), aff'd, 787 F.2d 828, 833 (2d Cir. 1986).

A district court reviewing the substantive fairness, adequacy and reasonableness of the settlement must consider the relief achieved by the proposed settlement "measured against the Court's likely decree after trial"; whether the compromise is the result of arms-length negotiation and whether plaintiffs' counsel "possessed the experience and ability, and have engaged in the class's discovery necessary to effective representation of the class's interests" Id. 605 F.Supp. at 1394.

As shown in the accompanying Declaration of Jethro M. Eisenstein, this proposed settlement was reached by experienced counsel through arms-length negotiation, after substantial discovery. The results achieved are changes that likely would not have been available as relief granted by the Court after trial.

The proposed changes in the Modified Handschu Guidelines are incorporated in a set of those Guidelines as amended, which is attached to the Stipulation of Settlement as Exhibit 1. The proposed changes are as follows:

a) The Statement of Policy has been revised so that it explicitly ties the guarantee of equal protection under the Constitution to a right to be free from investigations in which race, religion or ethnicity is a substantial or motivating factor;

b) The General Principles reiterate that investigations must not intrude upon rights of expression or association in a manner that discriminates on the basis of race, religion or ethnicity;

c) To initiate a Preliminary Inquiry there must be fact-based and articulable allegations or information supporting the inquiry;

d) All Preliminary Inquiries are subject to review every six months;

e) All Preliminary Inquiries are subject to an eighteen month presumptive limit⁷;

f) All Full Investigations are subject to review every six months;

g) All Full Investigations are subject to a three-year presumptive limit;

h) All Terrorism Enterprise Investigations are subject to review every six months;

i) All Terrorism Enterprise Investigations are subject to a five-year presumptive limit in duration;

j) The Amended Modified rules provide for the establishment of a Handschu Committee, thereby institutionalizing and formalizing a collaborative process

⁷ This time limit, and the ones described in paragraphs "g" and "i", were imposed and negotiated in response to what counsel learned in discovery regarding the duration of investigations.

involving many participants advising the Deputy Commissioner for Intelligence with regard to opening, continuing and closing investigations;

k) The Amended Modified Handschu Guidelines add to the Handschu Committee a civilian member, unaffiliated with the Police Department, as a full participant in the collaborative process with regard to the initiation, continuation and closing of investigations⁸;

l) The civilian member of the Handschu Committee is endowed with the power and obligation to monitor compliance with the Modified Handschu Guidelines. If the rules are being violated, she is required to record her objection in the minutes of the Handschu Committee. She is empowered to contact the Police Commissioner and to require the Commissioner to review the investigation for compliance. In addition, in the event that the civilian member concludes that the NYPD is violating the Modified Handschu Guidelines as a matter of policy, she is required to notify the Court of the violative policies for possible further judicial action;

⁸ The civilian member is appointed for a five-year term and continues thereafter unless the position is abolished or modified by the Mayor, in consultation with the Police Commissioner. We sought to have any such decision subject to judicial review but this change was refused. If the Mayor chooses to abolish this position, Class Counsel must be given 90 days advance notice. The plaintiff class will thus have an opportunity to mobilize popular opposition to the elimination of the civilian member, if it should ever be proposed.

m) The Amended Modified Handschu Guidelines require that the choice of investigative techniques take account of the potential effect of the investigation on the political or religious activity of individuals, groups or organizations and the potential effect on persons who, although not a target of the investigation, are affected by or subject to the particular investigative technique;

n) The Amended Modified Handschu Guidelines require that operations with undercover police officers and confidential informants only be initiated and continued when the information sought cannot be obtained in a timely and effective way by less intrusive means;

o) In addition to the changes in the Modified Handschu Guidelines that have been agreed to by the NYPD, and that both Class Counsel and counsel for defendants now recommend for approval by this Court, the NYPD has agreed to remove from its website the report entitled Radicalization in the West, which has been harshly criticized as to its assumptions, methodology and conclusions.

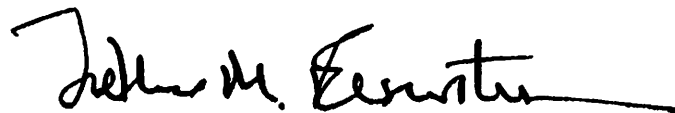
These proposed further modifications to the Modified Handschu Guidelines, taken together, represent a fair, reasonable and adequate resolution of the claims made in the motion of the plaintiff class. The Modified Handschu

Guidelines, with the changes for which approval is now sought, are a unique instrument for the preservation of the balance between law enforcement and civil liberties in New York City. Class Counsel respectfully submit that these proposed amendments improve the Modified Handschu Guidelines as they currently exist, and should be approved.

CONCLUSION

For the reasons stated above, class counsel request that the Court schedule a Fairness Hearing on notice to the members of the class, and after hearing from class members approve the Stipulation of Settlement and Order further modifying the Modified Handschu Guidelines on consent, dispose of the pending Motion filed February 4, 2013 as provided in the Stipulation of Settlement, and grant such other and further relief as to this Court may seem just and proper.

Dated: New York, New York
January 7, 2016



JETHRO M. EISENSTEIN (JE 6848)
Profeta & Eisenstein
45 Broadway, Suite 2200
New York, NY 10006
(212) 577-6500

PAUL G. CHEVIGNY (PC 3569)
NYU School of Law
40 Washington Square South
New York, NY 10012
(212) 998-6249

MARTIN R. STOLAR (MS 2576)
305 Broadway, Suite 555
New York, NY 10007-3617
(212) 219-1919

FRANKLIN SIEGEL (FS 4952)
c/o Profeta & Eisenstein
45 Broadway, Suite 2200
New York, NY 10006
(212) 406-0700

ARTHUR N. EISENBERG (AE 2012)
New York Civil Liberties Union
Foundation
125 Broad Street, 17th Floor
New York, NY 10004
(212) 344-3005

Attorneys for Plaintiff Class

TO: ZACHARY CARTER
Corporation Counsel of
The City of New York
Attorney for Defendants
Peter G. Farrell
Deputy Division Chief
100 Church Street, Room 3-147
New York, NY 10007
(212) 356-3532