

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY**

IN RE: SOVEREIGN BANCORP INC.  
SHAREHOLDERS LITIGATION

November Term, 2008

Case No. 2587

Class and Derivative Action

**NOTICE OF PENDENCY OF CLASS AND DERIVATIVE ACTIONS,  
PROPOSED CLASS ACTION DETERMINATION, PROPOSED SETTLEMENT  
OF ACTIONS, SETTLEMENT HEARING AND RIGHT TO APPEAR**

TO: ALL CURRENT SHAREHOLDERS OF SOVEREIGN BANCORP INC. ("SOVEREIGN") AND ALL RECORD HOLDERS AND BENEFICIAL OWNERS OF COMMON STOCK OF SOVEREIGN ON ANY DAY DURING THE PERIOD FROM OCTOBER 13, 2008 TO AND INCLUDING THE EFFECTIVE DATE OF CONSUMMATION OF THE TRANSACTION, AND THEIR SUCCESSORS IN INTEREST AND TRANSFEREES, IMMEDIATE AND REMOTE (EXCEPT DEFENDANTS AND ANY FIRM, TRUST, CORPORATION, CORPORATE AFFILIATE, OR OTHER ENTITY RELATED TO OR AFFILIATED WITH ANY OF THE DEFENDANTS, THEIR IMMEDIATE FAMILIES AND AFFILIATES) (THE "SETTLEMENT CLASS").

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS WILL BE AFFECTED BY THE LEGAL PROCEEDINGS IN THESE ACTIONS. IF THE COURT APPROVES THE PROPOSED SETTLEMENT, YOU WILL BE FOREVER BARRED FROM CONTESTING THE FAIRNESS OF THE PROPOSED SETTLEMENT, OR PURSUING THE RELEASED CLAIMS (AS DEFINED BELOW).

IF YOU HELD THE COMMON STOCK OF SOVEREIGN FOR THE BENEFIT OF SOMEONE ELSE, PLEASE PROMPTLY TRANSMIT THIS DOCUMENT TO THAT PERSON.

**I. PURPOSE OF NOTICE**

The purpose of this Notice is to inform you of the proposed settlement (the "Settlement") of a group of shareholder class and derivative actions (the "Actions") pending in the Court of Common Pleas of the County of Philadelphia, Pennsylvania (the "Court"). This Notice also informs you of the Court's certification of the Class for purposes of the Settlement, and notifies you of your right to participate in a hearing to be held on April 2, 2009 at 9:30 a.m., before the Court at Courtroom 246, City Hall, Broad and Market Streets, Philadelphia, Pennsylvania 19107 (the "Settlement Hearing"). At the Settlement Hearing, the Court will, among other things, (i) determine whether class certification should be made final, (ii) determine whether the Court should approve the Settlement as fair, reasonable, adequate, and in the best interests of Sovereign, the named plaintiffs ("plaintiffs") and the other members of the Class, (iii) determine whether the Court should enter an Order and Final Judgment pursuant to the Stipulation of Settlement (the "Stipulation"), (iv) consider the application of plaintiffs' counsel for an award of attorneys' fees and expenses, (v) hear and rule upon any objections to the Settlement or the application of plaintiffs' counsel for an award of attorneys' fees and expenses; and (vi) hear such other matters as the Court may deem appropriate. This Notice describes the rights you may have under the Settlement and what steps you may, but are not required to, take in relation to the Settlement. If you wish to participate in the Settlement, and do not object to the Settlement, you need not do anything in response to this Notice.

If the Court approves the Settlement, the parties will ask the Court at the Settlement Hearing to enter a Final Order and Judgment dismissing the Actions with prejudice on the merits.

## **II. NATURE OF THE CLAIMS IN THE ACTIONS**

**THE FOLLOWING RECITATION DOES NOT CONSTITUTE FINDINGS OF THE COURT. IT IS BASED ON STATEMENTS OF THE PARTIES AND SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.**

On October 13, 2008, defendant Sovereign announced that it had entered into a Transaction Agreement with Banco Santander, S.A. ("Santander"). In the transaction, Sovereign will be acquired by Santander. The Transaction Agreement has been approved by a majority vote of the shareholders of Sovereign, and by a majority vote of the shareholders of Santander. Pursuant to the Transaction Agreement, each outstanding share of Sovereign common stock will be exchanged for 0.3206 Santander American Depositary Shares (the "Proposed Transaction").

On October 14, 2008, plaintiffs filed the first of several class and shareholder derivative actions against defendants Gonzalo de Las Heras, Alberto Sanchez, Gabriel Jaramillo, Ralph Whitworth, William J. Moran, Cameron C. Troilo, Sr., P. Michael Ehlerman, Brian Hard, Marian L. Heard, Andrew C. Hove, Jr. and Maria Fiorini Ramirez (the "Individual Defendants"), all of whom were members of the Board of Directors of Sovereign. Plaintiffs also sued defendant Santander. Sovereign was listed as a defendant in name only with respect to plaintiffs' derivative claims, which are claims brought by shareholders "derivatively" on behalf of their corporation, in this case Sovereign.

In addition to the derivative claims, plaintiffs brought class action claims on behalf of all record holders and beneficial owners of Sovereign common stock (excluding Defendants and any firm, trust, corporation, corporate affiliate, or other entity related to or affiliated with any of the Defendants) on any day during the period from October 13, 2008 to and including the effective date of consummation of the Proposed Transaction, and successors in interest and transferees, immediate and remote, of all such foregoing holders and/or owners (the "Class").

Plaintiffs filed these lawsuits following the public announcement of the Proposed Transaction. Plaintiffs filed a motion asking the Court to stop the vote on the Proposed Transaction (a motion for a preliminary injunction). Defendants filed "preliminary objections," *i.e.*, papers seeking to dismiss the allegations in plaintiffs' complaints. On November 25, 2008, at a conference with the Court, the Court ordered expedited discovery and a schedule for briefing on defendants' Preliminary Objections and plaintiffs' Motion for a Preliminary Injunction.

On December 2, 2008, plaintiffs filed a Consolidated Amended Class Action and Shareholders Derivative Complaint (the "Consolidated Complaint"). Plaintiffs challenged the terms of the Transaction Agreement as well as the process conducted by defendants in negotiating the Transaction Agreement. The Consolidated Complaint also challenged the sufficiency of Sovereign's disclosures regarding the Proposed Transaction and the process leading up to the Proposed Transaction in the Preliminary Proxy filed with the Securities and Exchange Commission on November 18, 2008. The Amended Complaint alleged, among other things, that the Individual Defendants breached their fiduciary duties to Sovereign by engaging in a process that led to an agreement to sell the Company at an unfair price, and by failing to disclose certain material information relating to the Proposed Transaction. Plaintiffs also alleged that Santander was a controlling shareholder of Sovereign by virtue of its shareholdings, representation on the Sovereign Board and control over the corporate affairs of Sovereign, and that Santander breached its fiduciary duties as a controlling shareholder by coercing the Proposed Transaction at an unfair price.

Discovery proceeded according to the schedule set out in the November 25, 2008 Case Management Order, and defendants produced tens of thousands of documents. Plaintiffs' counsel reviewed and analyzed those documents and took eight depositions. Three of those depositions were reopened after the Office of Thrift Supervision, Sovereign's regulator, agreed to a limited waiver of the regulatory privilege and allowed defendants to produce additional documents and testimony pertaining to the involvement of the OTS in connection with the Proposed Transaction.

A full evidentiary hearing on plaintiffs' Motion for a Preliminary Injunction began on January 12, 2009 and continued for six days, through January 20, 2009. Multiple witnesses testified at the hearing, including the experts retained by the parties, the investment advisor for Sovereign with respect to the Proposed Transaction, and one director of Sovereign. The testimony of two other Individual Defendants was submitted before the record was closed.

Following the closing of the record on the preliminary injunction hearing, and with the assistance of the Court, counsel for the Parties negotiated a Settlement Agreement, the terms of which are described in the next section of this Notice. On January 21, 2009, the Court granted preliminary approval of the Settlement Agreement.

Based on a thorough investigation of the events, negotiations, and agreements described above, and an analysis of applicable law and the unprecedented global market conditions impacting financial institutions, plaintiffs and their counsel have concluded that a Settlement of the Actions on the terms and conditions described herein is fair, reasonable, adequate, and in the best interest of the members of the Class and Sovereign.

On January 21, 2009, plaintiffs, defendants, and their counsel entered into the Settlement Agreement after taking into account, among other things, (i) the risks of continued litigation; (ii) the desirability of permitting the Settlement to be consummated as provided by the terms of the Settlement Agreement; and (iii) the conclusion of counsel for the plaintiffs that the terms and conditions of the Settlement are fair, reasonable, adequate, and in the best interest of the Class.

### **III. THE SETTLEMENT AND PARTICIPATION IN THE SETTLEMENT**

In exchange for the full settlement and dismissal with prejudice of the Actions and the releases that plaintiffs have provided in the Settlement Agreement, defendants have agreed to make additional disclosures regarding the background of the Proposed Transaction and Santander's reasons for entering into the Proposed Transaction (the "Additional Disclosures"). Plaintiffs' counsel reviewed, commented on, and agreed to those disclosures, which relate primarily to Santander's reasons for entering into the Proposed Transaction and details regarding the events leading up to the Proposed Transaction (including meetings between Santander's designees on the Sovereign Board and the OTS). On January 21, 2009, Sovereign and Santander each filed with the SEC on Forms 8-K and 6-K the Additional Disclosures as agreed by the Parties and approved by the Court.

In addition to filing the Additional Disclosures, defendants agreed to the following settlement benefits as well:

- a. a reduction in the termination fee from \$95 million to \$60 million; and
- b. that testimony of a representative of Barclays would be proffered that economic conditions and the Mergers and Acquisitions market for U.S. banks have not improved since mid-October 2008 and that knowledge of these conditions existing as of mid-January 2009 would not have altered his view of Sovereign's situation as of mid-October 2008; and
- c. Santander agreed to close the transaction promptly once the shareholder votes occurred (which have now happened) so that the Sovereign shareholders will receive their share of the Santander dividend payable to all shareholders of record on January 30, 2009. (If the transaction had not closed on January 30, 2009, despite prompt, favorable shareholder votes by both Sovereign and Santander shareholders, Santander further agreed to make such payment to the Sovereign shareholders of record on January 30, 2009 upon the subsequent closing of the transaction as if they were Santander shareholders on January 30, 2009); and
- d. For a period of 12 months after the closing date, Santander will not terminate and will not permit Sovereign to terminate, except, in either case, for cause, the employment of any Sovereign employees employed by Sovereign in the Commonwealth of Pennsylvania on the closing date, provided that this commitment will not apply to (1) the approximately 1,000 layoffs previously announced by Sovereign as provided to plaintiffs' lead counsel, or (2) employees terminated under contractual employment agreements or agreements that contain change-in-control provisions in existence on the closing date or

(3) any of up to 150 employees who, for business reasons, may be transferred between Sovereign business units (in or out of Pennsylvania), and who refuse to move, it being understood that such request for transfer shall not constitute constructive termination (the benefit in this paragraph “d.” is referred to as the “No-Layoff Protection”); and

e. For a period of 12 months after the closing date, Santander will provide severance to those Sovereign employees who are not protected by the No-Layoff Protection, are employed on the closing date, and whose employment is terminated by Sovereign other than for cause within that 12-month period, provided that this commitment will not apply to employees who are parties to change-in-control or other employment agreements as of the closing date. The terms of the severance will be the same as Sovereign’s non-binding severance policy in effect as of the date of this Settlement Agreement, which the parties consider to be generous by industry standards; and

f. If, during the period of 12 months following the expiration of the period of No-Layoff Protection, Santander or Sovereign terminates the employment of any of the Pennsylvania employees entitled to the No-Layoff Protection, Santander will provide severance to those employees in accordance with the terms of the non-binding Sovereign severance policy in effect on the closing date, so long as (i) the termination of the employee’s employment is not for cause and (ii) the employee was not a party to a change-in-control or employment agreement as of the closing date; excluding the employees referred to in subsection (d)(3) above; and

g. Sovereign employees employed on the closing date will receive ADSs representing 100 shares of Santander ordinary shares within three months of final, non-appealable settlement approval.

If you are a Class member, you will be bound by any judgment entered in the Actions whether or not you actually receive this Notice, unless you opt out of the Class as directed below. You may not opt out of the Settlement of the derivative claims.

#### **IV. RELEASE**

The Settlement Agreement provides that the Actions shall be dismissed, with prejudice, without fees or costs except as expressly provided in the Settlement Agreement. At the Settlement Hearing, the parties will seek final settlement approval from the Court for a complete release and settlement of any and all known and unknown claims (including Unknown Claims (as defined below)) for damages, injunctive relief or any other remedy against all defendants in the Actions and all non-defendant directors of Sovereign during the transaction negotiations, and any of their present or former affiliates, parents, subsidiaries (including the directors and officers of such affiliates, parents, and subsidiaries), general partners, limited partners, partnerships, and their respective officers, directors, managing directors, employees, agents, attorneys, advisors, insurers, accountants, auditors, trustees, financial advisors, lenders, investment bankers, associates, representatives, heirs, executors, personal representatives, estates, administrators, successors and assigns (all, collectively, the “Released Persons”) that have been or could have been asserted by any member of the proposed Settlement Class in any forum, including class, derivative, individual or other claims, whether state or federal, common law, statutory or regulatory, including, without limitation, claims under the common law of Pennsylvania and the federal securities laws, arising out of, related to, or concerning (i) the allegations contained in the Actions, (ii) the facts or occurrences mentioned in the Actions, (iii) the Proposed Transaction, including the negotiations leading to the Proposed Transaction, the agreements and disclosures relating to the Proposed Transaction, any compensation or other payments made in connection with the Proposed Transaction, and the consideration being paid pursuant to the Proposed Transaction, (iv) the Registration Statement on Form F-4/Schedule 14A and any documents incorporated by reference therein or forming a part thereof, and (v) any matter that could have been asserted in the Actions regarding breach of fiduciary duty or failure to disclose material facts (all, collectively, the “Released Claims”). The Released Claims shall be fully, finally and forever compromised, settled, extinguished, dismissed, discharged and released with prejudice pursuant to the terms and conditions of the Settlement Agreement.

The claims to be released shall not include the right of any Class member or any of the defendants to enforce the terms of the Settlement and shall not apply to the claims asserted in the lawsuits captioned *Schmalz v. Sovereign Bancorp, Inc., et al.* (Civ. Action No.: 08-cv-00857(WD)) and *Wentworth v. Sovereign Bancorp, Inc., et al.* (Civ. Action No.: 08-cv-01991 (WD)), both pending in the United States District Court for the Eastern District of Pennsylvania.

The Parties also will seek an order confirming that the releases under the Settlement shall extend to claims that plaintiffs and the members of the Class do not know or suspect to exist at the time of the release, which, if known, might have affected the decision to enter into the release or to object or not to object to the Settlement (“Unknown Claims”). Plaintiffs and the members of the Class shall be deemed to waive, and shall waive and relinquish to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by any law of the United States or any state, commonwealth or territory of the United States, or principle of common law, which governs or limits a person’s release of Unknown Claims; further, with respect to any and all of the Released Claims, including any and all Unknown Claims, that (a) plaintiffs and the members of the Class shall be deemed to waive, and shall waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor;

Plaintiffs and the members of the Class also shall be deemed to waive any and all provisions, rights and benefits conferred by any law of any state, commonwealth, or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code § 1542; and (c) plaintiffs, on behalf of the Class, acknowledge that members of the Class may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention, as plaintiffs, and on behalf of the Class, to fully, finally and forever settle and release any and all Released Claims, including any and all Unknown Claims, hereby known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery or existence of such additional or different facts.

## **V. REASONS FOR THE SETTLEMENT**

Plaintiffs, through their attorneys, have conducted a thorough investigation of the claims and allegations asserted in the Actions, as well as the underlying events and transactions relevant to the Actions. Plaintiffs, through their attorneys, also considered the substantial evidence that they found during the course of discovery and the hearing on their motion for a preliminary injunction. In evaluating the Settlement, plaintiffs and their counsel have considered (i) the substantial uncertainties regarding whether they would prevail in the Actions, especially in light of the global market conditions impacting financial institutions; (ii) the expense necessary to prosecute the Actions to a trial on the merits against defendants and any subsequent appeal; and (iii) the benefits afforded to Sovereign and to the members of the Class by the transaction and the Settlement.

Defendants have denied, and continue to deny, any wrongdoing or liability with respect to all claims, events and transactions complained of in the Actions, deny that they engaged in any wrongdoing, deny that they committed any violation of the law, deny that they breached any fiduciary duties, and deny liability of any kind to plaintiffs or the Class, but considered it desirable that the Actions be settled and dismissed on the merits and with prejudice in order to: (i) avoid substantial expense, burden and risk of continued litigation; (ii) dispose of potentially burdensome and protracted litigation; and (iii) finally put to rest and terminate the claims asserted in the Actions.

**VI. APPLICATION FOR ATTORNEYS' FEES AND EXPENSES**

At or before the Settlement Hearing, plaintiffs' counsel intend to petition the Court for an award of \$6,900,000 for fees and expenses in connection with the Settlement of the Actions (the "Fee Application"). Defendants have agreed to pay fees up to that amount as ordered by the Court and will not oppose the Fee Application.

**VII. CLASS ACTION DETERMINATION**

The Court has ordered that, for purposes of the Settlement only, the Actions shall be conditionally maintained as a class action, with Plaintiffs serving as class representatives and the law firm appointed as Lead Counsel certified as Class Counsel pursuant to Rules 1701 *et. seq.* of the Pennsylvania Rules of Civil Procedure. Inquiries or comments about the Settlement may be directed to [www.sovereignshareholderlitigation.com](http://www.sovereignshareholderlitigation.com) or in writing to the attention of Class Counsel as follows:

Michael D. Donovan, Esq.  
DONOVAN SEARLES, LLC  
1845 Walnut Street, Suite 1100  
Philadelphia, Pennsylvania 19103

Inquiries about the Settlement should not be directed to Sovereign or Santander.

Pending final determination of whether the Settlement should be approved, plaintiffs and all members of the Class are barred from bringing or prosecuting any Released Claims in any court except to the extent necessary to preserve such claims under any applicable statute of limitations.

**VIII. SETTLEMENT HEARING**

The Court has scheduled a Settlement Hearing, which will be held on April 2, 2009 at 9:30 a.m. in the Court of Common Pleas, Philadelphia County, Courtroom 246 at Philadelphia City Hall, Broad and Market Streets, Philadelphia, PA 19107, in connection with the proposed settlement. The Court may adjourn or reschedule the Settlement Hearing without further notice. The Court may also approve the Settlement with or without modification, enter a Final Judgment and Order of Dismissal, and rule on the Fee Application without further notice.

**IX. YOUR RIGHT TO APPEAR AND OBJECT AT THE SETTLEMENT HEARING**

Any member of the Class who (a) objects to the (i) Settlement, (ii) class action determination, (iii) adequacy of representation of Plaintiffs and their counsel, (iv) dismissal of the Actions, (v) judgment to be entered with respect thereto, and/or (vi) the Fee Application; or (b) otherwise wishes to be heard, may appear in person or through counsel at the Settlement Hearing. If you want to do so, however, you should make a filing with the Court, postmarked not later than March 23, 2009, which includes: (i) proof of membership in the Class, (ii) a statement of your objections, and (iii) the reasons for your objection or the reasons for your desiring to be heard, including any documents or writings you wish the Court to consider. Also, you should send a copy of the filed materials by email or regular mail, postmarked no later than March 23, 2009, to each of the following attorneys of record:

Michael D. Donovan, Esq. DONOVAN SEARLES, LLC 1845 Walnut Street, Suite 1100 Philadelphia, PA 19103 <a href="mailto:m Donovan@donovansearles.com">mdonovan@donovansearles.com</a>	-and-	Mark R. Rosen, Esq. BARRACK RODOS & BACINE Two Commerce Square 20001 Market Street, Suite 3300 Philadelphia, PA 19103 <a href="mailto:mrosen@barrack.com">mrosen@barrack.com</a>	-and-	John F. Smith, III, Esq. REED SMITH LLP 2500 Liberty Place 1650 Market Street Philadelphia, PA 19103 <a href="mailto:jfsmith@reedsmith.com">jfsmith@reedsmith.com</a>
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Any Class member who does not object to the Settlement, the class action determination, or the Fee Application need not do anything at this time.

The Court may direct that no person will be entitled to object to the approval of the Settlement, the class action determination or the judgment to be entered in the Actions, or otherwise to be heard, unless s/he previously served and filed written objections as described above.

#### X. YOUR RIGHT TO OPT OUT

If you are a member of the Class and wish to exclude yourself from the Class, you may do so and you will not be bound by the terms of the Settlement and you will not be bound by the terms of the release described in Section IV, above. **In order to opt out, you must have voted against the Proposed Transaction in the shareholder vote held on January 28, 2009.** You then must notify the counsel identified in the paragraph above of your desire to exclude yourself from the Settlement, in writing postmarked on or before March 23, 2009. Your request to be excluded from the Settlement must include your name, address, the number of common shares held during the class period and a statement that you voted against the Proposed Transaction.

#### XI. NOTICE TO PERSONS OR ENTITIES HOLDING OWNERSHIP ON BEHALF OF OTHERS

Brokerage firms, banks, and/or other persons or entities who hold shares of Sovereign common stock for the benefit of others are directed promptly to send this Notice to all of their respective beneficial owners. If additional copies of the Notice are needed for forwarding to such beneficial owners, any requests for such additional copies may be made to:

Sovereign Bank Shareholders Litigation  
c/o Strategic Claims Services  
600 N. Jackson Street, Suite 3  
Media, PA 19063  
[info@strategicclaims.net](mailto:info@strategicclaims.net)

#### XII. SCOPE OF THE NOTICE

This Notice is not all-inclusive. The references in this Notice to the pleadings in the Actions, the Settlement Agreement and other papers and proceedings are only summaries and do not presume to be comprehensive. Full details of the Actions, the claims that have been asserted by the Parties, and the terms and conditions of the Settlement, including a complete copy of the Settlement Agreement, may be reviewed at [www.sovereignshareholderlitigation.com](http://www.sovereignshareholderlitigation.com). You or your attorney may also examine the Court's files during regular business hours of each business day at the office of the Prothonotary. Questions or comments may also be directed to Plaintiffs' Counsel. DO NOT WRITE OR TELEPHONE THE COURT.

Dated: February 3, 2009

BY ORDER OF THE COURT

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MARK I. BERNSTEIN, J.

In re Sovereign Bank Shareholders Litigation  
Notice Administrator  
c/o Strategic Claims Services  
600 N. Jackson Street, Suite 3  
Media, PA 19063

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