

Blackrock Core Bond Portfolio
2020 NY Slip Op 31567(U)
May 22, 2020
Supreme Court, New York County
Docket Number: 656587/2016
Judge: Andrew Borrok
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ANDREW BORROK PART IAS MOTION 53EFM

Justice

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INDEX NO. 656587/2016
MOTION DATE _____
MOTION SEQ. NO. 013

BLACKROCK CORE BOND PORTFOLIO, BLACKROCK COREALPHA BOND FUND E, BLACKROCK COREALPHA BOND MASTER PORTFOLIO, BLACKROCK COREPLUS BOND FUND B, BLACKROCK DYNAMIC HIGH INCOME - STRUCTURED CREDIT PORTFOLIO, BLACKROCK ENHANCED GOVERNMENT FUND, INC.,BLACKROCK INCOME TRUST, INC.,BLACKROCK MASTER TOTAL RETURN PORTFOLIO OF MASTER BOND LLC,BLACKROCK MULTI-ASSET INCOME - NON-AGENCY MBS PORTFOLIO, BLACKROCK MULTI-SECTOR INCOME TRUST, BLACKROCK STRATEGIC INCOME OPPORTUNITIES PORTFOLIO, BLACKROCK TOTAL RETURN PORTFOLIO INS - SERIES, BLACKROCK US MORTGAGE, FIXED INCOME SHARES SERIES R, FIXED INCOME SHARES SERIES C, FIXED INCOME SHARES SERIES LD, FIXED INCOME SHARES SERIES M, LVS II LLC,PACIFIC BAY CDO, LTD., PCM FUND, INC.,PIMCO ABSOLUTE RETURN STRATEGY 3D OFFSHORE FUND LTD., PIMCO ABSOLUTE RETURN STRATEGY II MASTER FUND LDC, PIMCO ABSOLUTE RETURN STRATEGY III MASTER FUND LDC, PIMCO ABSOLUTE RETURN STRATEGY IV IDF LLC,PIMCO ABSOLUTE RETURN STRATEGY IV MASTER FUND LDC, PIMCO ABSOLUTE RETURN STRATEGY V MASTER FUND LDC, PIMCO BERMUDA TRUST II PIMCO BERMUDA INCOME FUND (M), PIMCO BERMUDA TRUST IV PIMCO BERMUDA GLOBAL BOND EX-JAPAN FUND, PIMCO BERMUDA TRUST PIMCO EURO TOTAL RETURN FUND, PIMCO BERMUDA TRUST PIMCO EMERGING MARKETS BOND FUND (M), PIMCO CAYMAN SPC LIMITED PIMCO CAYMAN GLOBAL AGGREGATE BOND SEGREGATED PORTFOLIO, PIMCO CAYMAN SPC LIMITED PIMCO CAYMAN JAPAN COREPLUS SEGREGATED PORTFOLIO, PIMCO CAYMAN SPC LIMITED PIMCO CAYMAN JAPAN COREPLUS STRATEGY SEGREGATED PORTFOLIO, PIMCO CAYMAN SPC LIMITED PIMCO CAYMAN UNCONSTRAINED BOND SEGREGATED PORTFOLIO, PIMCO CAYMAN TRUST PIMCO CAYMAN GLOBAL AGGREGATE BOND FUND, PIMCO CAYMAN TRUST PIMCO CAYMAN GLOBAL AGGREGATE EX-JAPAN (YEN-HEDGED) BOND FUND II, PIMCO CAYMAN TRUST PIMCO CAYMAN GLOBAL AGGREGATE EX-JAPAN BOND FUND, PIMCO CAYMAN TRUST PIMCO CAYMAN GLOBAL EX-JAPAN (YEN-HEDGED) BOND FUND, PIMCO CORPORATE & INCOME OPPORTUNITY FUND, PIMCO CORPORATE & INCOME STRATEGY FUND, PIMCO

DECISION + ORDER ON MOTION

DISTRESSED SENIOR CREDIT OPPORTUNITIES FUND II, L.P., PIMCO DYNAMIC CREDIT AND MORTGAGE INCOME FUND, PIMCO DYNAMIC INCOME FUND, PIMCO ETF TRUST PIMCO ENHANCED SHORT MATURITY ACTIVE EXCHANGE-TRADED FUND, PIMCO ETF TRUST PIMCO LOW DURATION ACTIVE EXCHANGE-TRADED FUND, PIMCO ETF TRUST PIMCO TOTAL RETURN ACTIVE EXCHANGE-TRADED FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, DIVERSIFIED INCOME DURATION HEDGED FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, DIVERSIFIED INCOME FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, EM FUNDAMENTAL INDEX STOCKSPLUS FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, EMERGING LOCAL BOND FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, EMERGING MARKETS BOND FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, EURO BOND FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, EURO INCOME BOND FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, GLOBAL ADVANTAGE REAL RETURN FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, GLOBAL BOND FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, GLOBAL FUNDAMENTAL INDEX STOCKSPLUS FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, GLOBAL INVESTMENT GRADE CREDIT FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, GLOBAL LOW DURATION REAL RETURN FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, INCOME FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, INFLATION STRATEGY FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, LOW DURATION GLOBAL INVESTMENT GRADE CREDIT FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, PIMCO CREDIT ABSOLUTE RETURN FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, STOCKSPLUS FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, STRATEGIC INCOME FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, TOTAL RETURN BOND FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, UNCONSTRAINED BOND FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, US FUNDAMENTAL INDEX STOCKSPLUS FUND, PIMCO FUNDS GLOBAL INVESTORS SERIES PLC, US SHORT-TERM FUND, PIMCO FUNDS PIMCO COMMODITIESPLUS STRATEGY FUND, PIMCO FUNDS PIMCO COMMODITY REAL RETURN STRATEGY FUND, PIMCO FUNDS PIMCO CREDIT ABSOLUTE RETURN FUND, PIMCO FUNDS PIMCO DIVERSIFIED INCOME FUND, PIMCO FUNDS PIMCO EM FUNDAMENTAL INDEXPLUS AR STRATEGY FUND, PIMCO FUNDS PIMCO EMERGING LOCAL BOND FUND, PIMCO FUNDS PIMCO EMG INTL LOW VOLATILITY RAFI-PLUS AR FUND, PIMCO FUNDS PIMCO FLOATING INCOME FUND, PIMCO FUNDS

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ACCOUNT PORTFOLIO SERIES MORTGAGE PORTFOLIO, PIMCO FUNDS PRIVATE ACCOUNT PORTFOLIO SERIES REAL RETURN PORTFOLIO, PIMCO FUNDS PRIVATE ACCOUNT PORTFOLIO SERIES SHORT-TERM PORTFOLIO, PIMCO FUNDS PRIVATE ACCOUNT PORTFOLIO SERIES U.S. GOVERNMENT SECTOR PORTFOLIO, PIMCO GLOBAL CREDIT OPPORTUNITY MASTER FUND LDC, PIMCO GLOBAL STOCKSPPLUS & INCOME FUND, PIMCO HIGH INCOME FUND, PIMCO INCOME OPPORTUNITY FUND, PIMCO INCOME STRATEGY FUND II, PIMCO INCOME STRATEGY FUND, PIMCO LARGE CAP STOCKSPPLUS ABSOLUTE RETURN FUND, PIMCO MULTI-SECTOR STRATEGY FUND LTD., PIMCO OFFSHORE FUNDS - PIMCO ABSOLUTE RETURN STRATEGY IV EFUND, PIMCO STRATEGIC INCOME FUND, INC., PIMCO TACTICAL OPPORTUNITIES MASTER FUND LTD., PIMCO VARIABLE INSURANCE TRUST PIMCO COMMODITY REAL RETURN STRATEGY PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO EMERGING MARKETS BOND PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO FOREIGN BOND PORTFOLIO (U.S. DOLLAR HEDGED), PIMCO VARIABLE INSURANCE TRUST PIMCO FOREIGN BOND PORTFOLIO (UNHEDGED), PIMCO VARIABLE INSURANCE TRUST PIMCO GLOBAL ADVANTAGE STRATEGY BOND PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO GLOBAL BOND PORTFOLIO (UNHEDGED), PIMCO VARIABLE INSURANCE TRUST PIMCO LONG TERM U.S. GOVERNMENT PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO LOW DURATION PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO REAL RETURN PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO SHORT-TERM PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO TOTAL RETURN PORTFOLIO, PIMCO VARIABLE INSURANCE TRUST PIMCO UNCONSTRAINED BOND PORTFOLIO, TERLINGUA FUND 2, LP, CREF BOND MARKET ACCOUNT, CREF SOCIAL CHOICE ACCOUNT, TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, TIAA GLOBAL PUBLIC INVESTMENTS, LLC - SERIES MBS, TIAA-CREF BOND FUND, TIAA-CREF BOND PLUS FUND, TIAA-CREF LIFE INSURANCE COMPANY, TIAA-CREF SHORT-TERM BOND FUND, TIAA-CREF SOCIAL CHOICE BOND FUND, ADVANCED SERIES TRUST, PRUDENTIAL BANK & TRUST, FSB, PRUDENTIAL LEGACY INSURANCE COMPANY OF NEW JERSEY, PRUDENTIAL RETIREMENT INSURANCE AND ANNUITY COMPANY, PRUDENTIAL TRUST COMPANY, THE GIBRALTAR LIFE INSURANCE COMPANY, LTD., THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, THE PRUDENTIAL INVESTMENT PORTFOLIOS 2, THE PRUDENTIAL INVESTMENT PORTFOLIOS 9, THE PRUDENTIAL INVESTMENT PORTFOLIOS, INC. 17, THE PRUDENTIAL INVESTMENT

PORTFOLIOS INC., THE PRUDENTIAL SERIES FUND,
KORE ADVISORS LP, SEALINK FUNDING LIMITED, DZ
BANK AG,

Plaintiff,

- v -

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 013) 206, 207, 208, 209,
210, 211, 212, 213, 214, 215, 216

were read on this motion to/for MISCELLANEOUS.

Upon the foregoing documents, the Plaintiffs motion for approval of a distribution plan for the
Net Settlement Fund in this action is granted as unopposed.

Accordingly, it is

ORDERED that this Order incorporates by reference the definitions in the Stipulation and
Agreement of Settlement dated November 9, 2018 (NYSCEF No. 149, the **Stipulation**), and the
Segura Affidavit, and all terms used in this Order shall have the same meanings as defined in the
Stipulation or the Affidavit of Luiggy Segura in Support of Plaintiffs' Unopposed Motion for
Approval of Distribution Plan (NYSCEF Doc. No. 208, the **Segura Affidavit**); and it is further

ORDERED that this Court has jurisdiction over the subject matter of the Action and over all
parties to the Action, including all Settlement Class Members; and it is further

ORDERED that the Plaintiffs' plan for distribution of the Net Settlement Fund to Authorized Claimants is approved:

- (a) The administrative recommendations of the Court-approved Claims Administrator, JND Legal Administration (**JND**), to accept the Timely Eligible Claims stated in Exhibit D to the Segura Affidavit and the Late But Otherwise Eligible Claims stated in Exhibit E to the Segura Affidavit, are adopted;
- (b) The Claims Administrator's administrative recommendations to reject wholly ineligible Claims, as stated in Exhibit F to the Segura Affidavit are adopted;
- (c) JND is directed to conduct an Initial Distribution of the Net Settlement Fund, after deducting all payments previously allowed and the payments approved by this Order, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, while maintaining a 5% reserve from the Net Settlement Fund to address any tax liability and claims administration-related contingencies that may arise, as stated in paragraph 45(a) of the Segura Affidavit (the **Distribution**). Specifically, as stated in paragraph 45(a) of the Segura Affidavit: (1) JND will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. JND will calculate each Authorized Claimant's *pro rata* share of the Net Settlement Fund as stated in subparagraph 45(a)(1) of the Segura Affidavit; (2) JND will calculate the total amount each Authorized Claimant would recover in accordance with the calculations stated in subparagraph (c)(1) above and then it will eliminate from

the distribution any Authorized Claimant whose total *pro rata* share of the Net Settlement Fund is less than the *de minimis* amount of \$10.00 for Court-approved Authorized Claimants to receive a payment, who will be so notified by JND; (3) JND will calculate the *pro rata* shares of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more (the **Distribution Amount**); (4) Authorized Claimants whose Distribution Amount calculates to less than \$100.00 under subparagraph (c)(3) above will be paid their full Distribution Amount in the Initial Distribution (**Claims Paid in Full**). These Authorized Claimants will get no additional funds in subsequent distributions; (5) 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$10.00 or more under subparagraph (c)(3) above. The remaining 5% of the Net Settlement Fund will be held in reserve (the **Reserve**) to address any tax liability and claims administration-related contingencies that may arise. To the extent the Reserve is not depleted, the remainder will be distributed in the “Second Distribution” described in subparagraph (f) below;

- (d) In order to encourage Authorized Claimants to cash their checks promptly, all distribution checks will bear the following notation: “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” Plaintiffs’ Counsel and JND are authorized to take appropriate action to locate and contact Authorized Claimants who have not cashed their distribution checks within said time as detailed in paragraph 45(b) footnote 3 of the Segura Affidavit;

- (e) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions stated in paragraph 45(b) footnote 3 of the Segura Affidavit will irrevocably forfeit all recovery from the Settlement, and the funds allocated to all such stale-dated checks will be available to be distributed to other Authorized Claimants in the second distribution. Similarly, Authorized Claimants who do not cash their second or subsequent distributions (should such distributions occur) within the time allotted or on the conditions stated in paragraph 45(b) footnote 3 of the Segura Affidavit will irrevocably forfeit any further recovery from the Net Settlement Fund;
- (f) After JND has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks (provided in paragraph 45(b) footnote 3 of the Segura Affidavit), but not earlier than one (1) year after the Initial Distribution, JND will, after consulting with Plaintiffs' Counsel, conduct a second distribution (the **Second Distribution**), in which any amount remaining in the Net Settlement Fund after the Initial Distribution (including from the Reserve and the funds for all void stale-dated checks), after deducting JND's unpaid fees and expenses incurred in administering the Settlement (including JND's estimated costs of the Second Distribution), and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants who cashed their Initial Distribution check and are entitled to receive at least \$10.00, the *de minimis* amount for Authorized Claimants to receive payment from the Second Distribution based on their *pro rata* share of the remaining funds. Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter

in six-month intervals until Plaintiffs' Counsel, in consultation with JND, determines that further distribution is not cost-effective;

(g) When Plaintiffs' Counsel, in consultation with JND, determines that further distribution of the funds remaining in the Net Settlement Fund is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after April 30, 2020, those Claims will be processed, and any otherwise valid Claims received after April 30, 2020, as well as any earlier-received Claims for which an adjustment was received after April 30, 2020, and resulted in an increased Recognized Claim amount, will be paid in accordance with subparagraph (h) below. If any funds remain in the Net Settlement Fund after payment of these late or late-adjusted Claims, the remaining balance of the Net Settlement Fund, after payment of any unpaid fees or expenses incurred in administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to appropriate non-profit organization(s) designated by Plaintiffs' Counsel and approved by the Court;

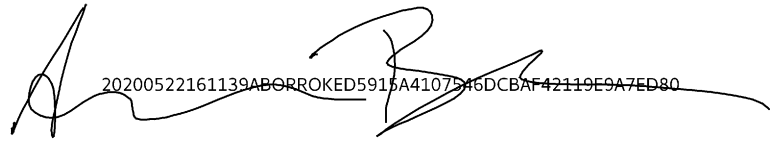
(h) No new Claims may be accepted after April 30, 2020, and no further adjustments to Claims received on or before April 30, 2020, that would result in an increased Recognized Claim amount may be made for any reason after April 30, 2020, subject to the following exception. If Claims are received or modified after April 30, 2020, that would have been eligible for payment or additional payment under the Plan of Allocation if timely received, then, at the time that Plaintiffs' Counsel, in consultation with JND, determines a distribution is not cost-effective as provided in subparagraph (g) above, and

after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, these Claimants, at the discretion of Plaintiffs' Counsel, may be paid their distribution amounts or additional distribution amounts on a pro rata basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks to the extent possible;

- (i) Provided that they comply with their obligations in this Order, all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are hereby released and discharged from any and all claims arising out of that involvement, and all Settlement Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, are hereby barred from making any further claims against the Net Settlement Fund, Plaintiffs, Plaintiffs' Counsel, the Claims Administrator, the Escrow Agent, or any other agent retained by Plaintiffs or Plaintiffs' Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants;
- (j) All of JND's fees and expenses incurred in the administration of the Settlement and estimated to be incurred in connection with the Distribution of the Net Settlement Fund, as stated in the invoices attached as Exhibit G to the Segura Affidavit, are approved, and

Plaintiffs' Counsel is directed to pay the outstanding balance of \$138,494.23 out of the Settlement Fund to JND; and it is further

ORDERED that this Court retains jurisdiction to consider any further applications concerning the administration of the Settlement and any other and further relief that this Court deems appropriate.



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5/22/2020

DATE

ANDREW BORROK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED DENIED

GRANTED IN PART OTHER

APPLICATION: SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT REFERENCE