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17 **UNITED STATES DISTRICT COURT**  
 18 **CENTRAL DISTRICT OF CALIFORNIA**

19 IN RE NORTHROP GRUMMAN  
 20 CORPORATION ERISA  
 LITIGATION

21 THIS DOCUMENT RELATES  
 22 TO:

23 All Actions

Master File No. CV 06-6213-AB (JCx)

**[PROPOSED] ORDER GRANTING  
 MOTION FOR PRELIMINARY  
 APPROVAL**

DATE: June 20, 2017  
 TIME: 9:00 a.m.  
 Courtroom 7B

Hon. André Birotte Jr.

1 This consolidated action involves claims for alleged breaches of fiduciary duty  
2 and prohibited transactions in violation of the Employee Retirement Income  
3 Security Act of 1974 (ERISA), as amended, 29 U.S.C. §1001 *et seq.*, with respect  
4 to two 401(k) plans sponsored by Northrop Grumman Corporation, the Northrop  
5 Grumman Savings Plan and the Northrop Grumman Financial Security and Savings  
6 Program.

7 The parties seek preliminary approval of a settlement of these claims against  
8 Defendants Northrop Grumman Corporation Savings Plan Administrative  
9 Committee, J. Michael Hateley, Ian Ziskin and Dennis Wootan (the “Settlement”).  
10 The terms of the settlement are set out in a Class Action Settlement Agreement  
11 dated June 7, 2017 (the “Settlement Agreement”) (Doc. 766-2), executed by the  
12 parties and their counsel. Jerome J. Schlichter, Michael A. Wolff, Stephen M.  
13 Hoeplinger, and Kurt C. Struckhoff from the law firm of Schlichter, Bogard &  
14 Denton LLP have been appointed as Class Counsel. Nancy G. Ross, Brian D.  
15 Netter, and Laura Hammargren from the law firm of Mayer Brown LLP represent  
16 Defendants.

17 The Court has considered the proposed settlement. Having reviewed the  
18 Settlement Agreement, the motion papers, and conducted a hearing in open court on  
19 June 20, 2017, it is **ORDERED** as follows.

20 1. **Preliminary Findings Regarding Proposed Settlement:** The Court  
21 preliminarily finds that:

22 A. The proposed settlement resulted from extensive arm’s-length  
23 negotiations;

24 B. The Settlement Agreement was executed only after Class  
25 Counsel had conducted extensive pre-settlement motion practice and discovery, and  
26 after negotiations, including in-person mediation sessions and numerous  
27 teleconference mediation sessions and extensive telephonic and email  
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1 communications with skilled mediators, and only after Class Counsel had begun  
2 trial in this case;

3 C. Class Counsel has concluded that the Settlement Agreement is  
4 fair, reasonable and adequate; and

5 D. The Settlement is sufficiently fair, reasonable, and adequate to  
6 warrant sending Class Notice (as defined in Paragraph 4 herein) of the Settlement to  
7 the Class<sup>1</sup>.

8 2. **Fairness Hearing:** A hearing is scheduled at the United States District  
9 Court for the Central District of California, Judge André Birotte Jr. presiding, at  
10 10:00 a.m. on October 23, 2017, (the “Fairness Hearing”) to determine, among  
11 other issues:

12 A. Whether the Settlement Agreement should be approved as fair,  
13 reasonable, and adequate;

14 B. Whether the notice, publication notice and notice methodology  
15 were performed as directed by this Court;

16 C. Whether the motion for attorneys’ fees and costs to be filed by  
17 Class Counsel should be approved;

18 D. Whether the motion for compensation to Class Representatives  
19 should be approved; and

20 E. Whether the Administrative Expenses specified in the  
21 Settlement Agreement and requested by the parties should be approved for payment  
22 from the Settlement Fund.

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25 \_\_\_\_\_  
26 <sup>1</sup> Per Plaintiffs’ unopposed motion to modify the Class definition (Doc. 767),  
which the Court granted (Doc. 771), the “Class” is defined as:

27 All persons, excluding Defendants, who were participants in or beneficiaries  
28 of the Northrop Grumman Plans at any time between September 28, 2000  
and May 11, 2009.

1           3.     **Establishment of Qualified Settlement Fund:** A common fund is  
2 agreed to by the parties in the Settlement Agreement and is hereby established and  
3 shall be known as the *In re Northrop Grumman Corporation ERISA Litigation*  
4 Settlement Fund (the “Settlement Fund”). The Settlement Fund shall be a “qualified  
5 settlement fund” within the meaning of Treasury Regulations §1.468-1(a)  
6 promulgated under Section 468B of the Internal Revenue Code. The Settlement  
7 Fund shall consist of \$16,750,000 and any interest earned thereon. The Settlement  
8 Fund shall be administered as follows:

9           A.     The Settlement Fund is established exclusively for the purposes  
10 of: (a) making distributions to eligible claimants in accordance with the claims  
11 process described in the Settlement Agreement; (b) making distributions to Class  
12 Representatives and Settlement Class Members as specified in the Settlement  
13 Agreement; (c) making payments for all settlement administration costs and costs  
14 of notice, including payments of all Administrative Expenses specified in the  
15 Settlement Agreement; (d) making payments of all Attorneys’ Fees and Costs to  
16 Class Counsel as awarded by the Court in this action; and (e) paying employment,  
17 withholding, income and other applicable taxes, all in accordance with the terms of  
18 the Settlement Agreement and this Order. Other than the payment of Administrative  
19 Expenses or as otherwise expressly provided in the Settlement Agreement, no  
20 distribution shall be made from the Settlement Fund until after the Settlement  
21 Effective Date.

22           B.     Within the time periods set forth in the Settlement Agreement,  
23 Defendants, their insurers or representatives shall cause \$16,750,000 to be  
24 deposited into the Settlement Fund.

25           C.     The Settlement Fund shall be a single qualified settlement fund  
26 within the meaning of Treasury Regulation §1.468B-1 *et seq.* Defendants, their  
27 insurers or representatives shall timely furnish a statement to the Settlement  
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1 Administrator that complies with Treasury Regulation §1.468B-3(e)(2) (a  
2 “§1.468B-3 Statement”), which may be a combined statement under Treasury  
3 Regulation §1.468B-3(e)(2)(ii), and shall attach a copy of the statement to their  
4 federal income tax returns filed for the taxable year in which Defendants, their  
5 insurers or representatives make a transfer to the Settlement Fund.

6 D. Defendants, their insurers or representatives shall have no  
7 withholding, reporting or tax reporting responsibilities with regard to the Settlement  
8 Fund or its distribution, except as otherwise specifically identified herein.  
9 Moreover, Defendants, their insurers or representatives shall have no liability,  
10 obligation, or responsibility for administration of the Settlement Fund or the  
11 disbursement of any monies from the Settlement Fund except for: (1) their  
12 obligation to cause the Settlement Amount to be paid into the Settlement Fund no  
13 later than the date specified above; and (2) their agreement to cooperate in  
14 providing information that is necessary for settlement administration set forth in the  
15 Settlement Agreement.

16 E. The oversight of the Settlement Fund is the responsibility of the  
17 Settlement Administrator. The status and powers of the Settlement Administrator  
18 are as defined by this Order.

19 F. The Settlement Amount caused to be paid by Defendants into  
20 the Settlement Fund in accordance with the Settlement Agreement, and all income  
21 generated by that Amount, shall be *in custodia legis* and immune from attachment,  
22 execution, assignment, hypothecation, transfer or similar process by any person.  
23 Once the Settlement Fund vests, it is irrevocable during its term and Defendants  
24 have divested themselves of all right, title or interest, whether legal or equitable, in  
25 the Settlement Fund, if any; provided, however, in the event the Settlement  
26 Agreement is not approved by the Court or the Settlement set forth in the  
27 Settlement Agreement is terminated or fails to become effective in accordance with  
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1 its terms (or, if following approval by this Court, such approval is reversed or  
2 modified), the parties shall be restored to their respective positions in this Case as  
3 of the day prior to the Settlement Agreement Execution Date; the terms and  
4 provisions of the Settlement Agreement and this Order shall be void and have no  
5 force and effect and shall not be used in this Case or in any proceeding for any  
6 purpose; and the Settlement Fund and income earned thereon shall immediately be  
7 returned to the entity that funded the Settlement Fund. Further provided that, if the  
8 Settlement Agreement is terminated after Defendants, their insurers or  
9 representatives have deposited the Settlement Funds, but prior to the entry of an  
10 order granting Final Approval of the Settlement, the funds in the Settlement Fund  
11 shall be disposed of as set forth in the Settlement Agreement.

12 G. The Settlement Administrator may make disbursements out of  
13 the Settlement Fund only in accordance with this Order or any additional Orders  
14 issued by the Court.

15 H. The Settlement Fund shall expire after the Settlement  
16 Administrator distributes all of the assets of the Settlement Fund in accordance with  
17 Article 6 of the Settlement Agreement, provided, however, that the Settlement Fund  
18 shall not terminate until its liability for any and all government fees, fines, taxes,  
19 charges and excises of any kind, including income taxes, and any interest, penalties  
20 or additions to such amounts, are, in the Settlement Administrator's sole discretion,  
21 finally determined and all such amounts have been paid by the Settlement Fund.

22 I. The Settlement Fund shall be used to make payments to  
23 Settlement Class Members under the Plan of Allocation set forth in the Settlement  
24 Agreement. Individual payments to Settlement Class Members will be subject to  
25 tax withholding as required by law and as described in the Class Notice and its  
26 attachments. In addition, all Class Representatives Compensation, Administrative  
27 Expenses and all Attorneys' Fees and Costs of Class Counsel shall be paid from the  
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1 Settlement Fund as set forth in the Settlement Agreement.

2 J. The Court and the Settlement Administrator recognize that there  
3 will be tax payments, withholding and reporting requirements in connection with  
4 the administration of the Settlement Fund. The Settlement Administrator shall, in  
5 accordance with the Settlement Agreement, determine, withhold, and pay over to  
6 the appropriate taxing authorities any taxes due with respect to any distribution  
7 from the Settlement Fund and shall make and file with the appropriate taxing  
8 authorities any reports or returns due with respect to any distributions from the  
9 Settlement Fund. The Settlement Administrator also shall determine and pay any  
10 income taxes owing with respect to the income earned by the Settlement Fund.  
11 Additionally, the Settlement Administrator shall file returns and reports with the  
12 appropriate taxing authorities with respect to the payment and withholding of taxes.

13 K. The Settlement Administrator, in its discretion, may request  
14 expedited review and decision by the IRS or the applicable state or local taxing  
15 authorities, with regard to the correctness of the returns filed for the Settlement  
16 Fund and shall establish reserves to assure the availability of sufficient funds to  
17 meet the obligations of the Settlement Fund itself and the Settlement Administrator  
18 as fiduciaries of the Settlement Fund. Reserves may be established for taxes on the  
19 Settlement Fund income or on distributions.

20 L. The Settlement Administrator and Defendants shall provide to  
21 and exchange with each other such information as shall be reasonably necessary to  
22 file notices, reports and returns and to make timely determinations of withholding  
23 obligations.

24 M. The Settlement Administrator shall have all the necessary  
25 powers, and take all necessary ministerial steps, to effectuate the terms of the  
26 Settlement Agreement, including the payment of all distributions. Such powers  
27 include receiving and processing information from Former Participants pertaining  
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1 to their claims and investing, allocating and distributing the Settlement Fund, and in  
2 general supervising the administration of the Settlement Agreement in accordance  
3 with its terms and this Order.

4 N. The Settlement Administrator shall keep detailed and accurate  
5 accounts of all investments, receipts, disbursements and other transactions of the  
6 Settlement Fund. All accounts, books and records relating to the Settlement Fund  
7 shall be open for reasonable inspection by such persons or entities as the Court  
8 orders. Included in the Settlement Administrator's records shall be complete  
9 information regarding actions taken with respect to the award of any payments to  
10 any person; the nature and status of any payment from the Settlement Fund and  
11 other information which the Settlement Administrator considers relevant to  
12 showing that the Settlement Fund is being administered, and awards are being  
13 made, in accordance with the purposes of the Settlement Agreement, this Order,  
14 and any future orders that the Court may find it necessary to issue.

15 O. The Settlement Administrator will establish protective  
16 conditions concerning the disclosure of information maintained by the Settlement  
17 Administrator if publication of such information would violate any law, including  
18 rights to privacy. Any person entitled to such information who is denied access to  
19 the Settlement Fund's records may submit a request to the Court for such  
20 information. However, the Settlement Administrator shall supply such information  
21 to any claimant as may be reasonably necessary to allow him or her to accurately  
22 determine his or her federal, state and local tax liabilities. Such information shall be  
23 supplied in the form and manner prescribed by relevant law.

24 P. This Order will bind any successor Settlement Administrator.  
25 The successor Settlement Administrator(s) shall have, without further act on the  
26 part of anyone, all the duties, powers, functions, immunities, and discretion granted  
27 to the original Settlement Administrator. Any Settlement Administrator(s) who is  
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1 replaced (by reason other than death) shall execute all instruments, and do all acts,  
2 that may be necessary or that may be ordered or requested in writing by the Court  
3 or by any successor Settlement Administrator(s), to transfer administrative powers  
4 over the Settlement Fund to the successor Settlement Administrator(s). The  
5 appointment of a successor Settlement Administrator(s), if any, shall not under any  
6 circumstances require any Defendant to make any further payment of any nature  
7 into the Settlement Fund or otherwise.

8       4.     **Class Notice:** The Settling Parties, as that term is defined in the  
9 Settlement Agreement, have presented to the Court proposed forms of Class Notice,  
10 which are appended hereto as Exhibit 3 and Exhibit 4, respectively.

11           A.     The Court finds that the proposed forms and the website  
12 referenced in the Class Notice fairly and adequately:

- 13                   i.     Describe the terms and effect of the Settlement  
14 Agreement and of the Settlement;
  - 15                   ii.    Notify the Settlement Class concerning the proposed Plan  
16 of Allocation;
  - 17                   iii.   Notify the Settlement Class that Class Counsel will seek  
18 compensation from the Settlement Fund for the Class Representatives, Attorneys'  
19 Fees and Costs;
  - 20                   iv.   Notify the Settlement Class that Administrative Expenses  
21 related to the implementation of the Settlement will be paid from the Settlement  
22 Fund;
  - 23                   v.     Give notice to the Settlement Class of the time and place  
24 of the Fairness Hearing; and
  - 25                   vi.    Describe how the recipients of the Class Notice may  
26 object to any of the relief requested and the rights of the parties to discovery  
27 concerning such objections.
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1           B.     The Settling Parties have proposed the following manner of  
2 communicating the notice to members of the Settlement Class, and the Court finds  
3 that such proposed manner is the best notice practicable under the circumstances,  
4 and directs that the Settlement Administrator shall by no later than sixty (60) days  
5 before the Fairness Hearing, cause the Class Notice, with such non-substantive  
6 modifications thereto as may be agreed upon by the Settling Parties, to be mailed,  
7 by first-class mail, postage prepaid, to the last known address of each member of  
8 the Settlement Class who can be identified through commercially reasonable  
9 means. Defendants shall cooperate with the Settlement Administrator by providing,  
10 in electronic format, the names, addresses and social security numbers of members  
11 of the Settlement Class. The names, addresses, and Social Security numbers  
12 obtained in accordance with this Order shall be used solely for the purpose of  
13 providing notice of this settlement and as required for purposes of tax withholding  
14 and reporting, and for no other purpose.

15           C.     For any Class Notice returned as undeliverable, the Settlement  
16 Administrator shall utilize the provided Social Security number to attempt to  
17 determine the current address of the Person and shall mail notice to that address.

18           D.     At or before the Fairness Hearing, Class Counsel or the  
19 Settlement Administrator shall file with the Court a proof of timely compliance  
20 with the foregoing requirements.

21           E.     The Court directs Class Counsel, no later than sixty (60) days  
22 before the Fairness Hearing, to cause the Class Notice to be published on the  
23 website identified in the Class Notice.

24           5.     **Objections to Settlement:** Any member of the Settlement Class who  
25 wishes to object to the fairness, reasonableness or adequacy of the Settlement, to  
26 the Plan of Allocation, to any term of the Settlement Agreement, to the proposed  
27 award of attorneys' fees and costs, or to any request for compensation for the Class  
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1 Representatives must file an Objection in the manner set out in this Order.

2           A.     A member of the Settlement Class wishing to raise an objection  
3 to the Plan of Allocation, to any term of the Settlement Agreement, to the proposed  
4 award of attorneys' fees and costs, or to any request for compensation for the Class  
5 Representatives must do the following: (A) file with the Court a statement of his or  
6 her objection(s), specifying the reason(s), if any, for each such objection made,  
7 including any legal support or evidence that such objector wishes to bring to the  
8 Court's attention or introduce in support of such objection; and (B) serve copies of  
9 the objection and all supporting authorities or evidence to Class Counsel and  
10 Defense Counsel. The addresses for filing objections with the Court and for service  
11 of such objections on counsel for the parties to this matter are as follows:

12                               Clerk of the Court  
13                               United States District Court for the Central District of California  
14                               350 West First Street  
15                               Los Angeles, CA 90012

16                               SCHLICHTER, BOGARD & DENTON, LLP  
17                               Attn: Northrop Grumman 401(k) Settlement  
18                               100 S. 4th Street, Suite 1200  
19                               St. Louis, MO 63102

20                               MAYER BROWN LLP  
21                               Attn: Nancy G. Ross  
22                               71 S. Wacker Drive  
23                               Chicago, IL 60606

24           B.     The objector, or his or her counsel (if any), must serve copies of  
25 the objection(s) on the attorneys listed above and file it (or them) with the Court by  
26 no later than thirty (30) days before the date of the Fairness Hearing.

27           C.     If an objector hires an attorney to represent him or her for the  
28 purposes of making such objection in accordance with this paragraph, the attorney  
must serve a notice of appearance on the attorneys listed above and file it with the

1 Court by no later than thirty (30) days before the date of the Fairness Hearing.

2 D. Failure to serve objections(s) on either the Court or counsel for  
3 the parties shall constitute a waiver of the objection(s). Any member of the  
4 Settlement Class or other Person who does not timely file and serve a written  
5 objection complying with the terms of this Order shall be deemed to have waived,  
6 and shall be foreclosed from raising, any objection to the Settlement, and any  
7 untimely objection shall be barred.

8 E. Any party wishing to obtain discovery from any objector may,  
9 but is not required to, serve discovery requests, including requests for documents  
10 and notice of deposition not to exceed two hours in length, on any objector within  
11 ten (10) days of receipt of the objection. Any responses to discovery or depositions  
12 must be completed within ten (10) days of service on the objector.

13 F. Any party wishing to file a response to an objection must do so,  
14 and serve the response on all parties, no later than ten (10) days before the Fairness  
15 Hearing.

16 6. **Appearance at Fairness Hearing:** Any objector who files and serves  
17 a timely, written objection in accordance with the terms of this Order as set out in  
18 Paragraph 5 above may also appear at the Fairness Hearing either in person or  
19 through counsel retained at the objector's expense. Objectors or their attorneys  
20 intending to speak at the Fairness Hearing must serve a notice of intention to speak  
21 setting forth, among other things, the name, address, and telephone number of the  
22 objector (and, if applicable, the name, address, and telephone number of the  
23 objector's attorney) on Class Counsel and Defendants' counsel (at the addresses set  
24 out above) and file it with the Court by no later than thirty (30) days before the date  
25 of the Fairness Hearing. Any objector (or objector's attorney) who does not timely  
26 file and serve a notice of intention to appear in accordance with this paragraph shall  
27 not be permitted to speak at the Fairness Hearing.  
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1           12.    **Claim Form Deadline:** All valid claim forms must be received by the  
2 Settlement Administrator with a postmark date no later than October 13, 2017.

3           13.    **Service of Papers:** Defendants’ counsel and Class Counsel shall  
4 promptly furnish each other with copies of all objections that come into their  
5 possession.

6           14.    **Effect of Termination of Settlement on this Order:** This Order shall  
7 become null and void, and shall be without prejudice to the rights of the Settling  
8 Parties, all of whom shall be restored to their respective positions existing the day  
9 before the Settlement Agreement Execution Date, if the Settlement is terminated in  
10 accordance with the Settlement Agreement.

11           15.    **Use of Order:** This Order shall not be construed or used as an  
12 admission, concession, or declaration by or against Defendants of any fault,  
13 wrongdoing, breach, or liability or a waiver of any claims or defenses, including but  
14 not limited to those as to the propriety of any amended pleadings or the propriety  
15 and scope of class certification. This Order shall not be construed or used as an  
16 admission, concession, or declaration by or against Named Plaintiffs or the  
17 Settlement Class that their claims lack merit, or that the relief requested in the  
18 Action is inappropriate, improper or unavailable. This Order shall not be construed  
19 or used as a waiver by any party of any arguments, defenses, or claims he, she, or it  
20 may have, including, but not limited to, any objections by Defendants to class  
21 certification in the event that the Settlement Agreement is terminated.

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16. **Continuance of Hearing:** The Court will not continue the Fairness Hearing without a showing of good cause.

**IT IS SO ORDERED.**

DATED: June 23, 2017



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André Birotte Jr.  
United States District Court Judge