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#### Bank of America \$2.4 Billion Settlement Approved by Judge

By Bob Van Voris on April 05, 2013

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Bank of America Corp. ([BAC](#))'s \$2.4 billion settlement with investors who lost money as a result of the bank's acquisition of Merrill Lynch & Co. was approved by a federal judge.

U.S. District Judge Kevin Castel in Manhattan said in a hearing today that the settlement is "fair, reasonable and adequate," and he granted it final approval.

"This was the antithesis of a collusive settlement," Castel said. "This was a hard-fought settlement."

Bank of America, based in Charlotte, North Carolina, reached the settlement in September, weeks before a trial was scheduled to begin in the case. In addition to paying \$2.4 billion in cash, the bank agreed to make reforms to its corporate governance.

The pact resolves shareholder litigation led by institutional shareholders including the Ohio Public Employees Retirement System.

The investors claimed Bank of America failed to disclose information about losses at Merrill Lynch and bonuses paid to Merrill Lynch employees before the brokerage was acquired by Bank of America in January 2009 for \$18.5 billion.

"There was a general reference to losses, but never was the magnitude of those losses disclosed," Ohio Attorney General Mike DeWine said at a September press conference after the accord was announced.

### 'Grand Canyon'

"This would be akin to telling someone to watch out for a pothole when they were about to fall into the Grand Canyon," the attorney general said.

The lender took its first \$15 billion bailout by taxpayers in 2008 as Merrill took \$10 billion. A second round of \$20 billion came in January 2009 after Merrill's losses in its final quarter as an independent firm surpassed \$15 billion, raising doubts about the lender's stability if the takeover proceeded.

"Resolving this litigation removes uncertainty and risk and is in the best interests of our shareholders," Chief Executive Officer Brian T. Moynihan, said in a September statement. "As we work to put these long-standing issues behind us, our primary focus is on the future and serving our customers and clients."

"We are pleased that this matter has been resolved," Lawrence Grayson, a bank spokesman, said today in a telephone interview.

Before settling, the parties exchanged 3.8 million pages of evidence, took testimony from 61 witnesses and filed

17 expert witness reports, Castel said today.

The judge told the parties that he was days away from ruling on requests to decide the case before trial. Castel's 87- page draft opinion "remains on the cutting-room floor," he said.

The case is In re Bank of America Corp. ([BAC](#)) Securities, Derivative and ERISA Litigation, 09-md-2058, U.S. District Court, Southern District of New York (Manhattan).

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