

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

IN RE NII HOLDINGS INC.
SECURITIES LITIGATION

Civ. No. 1:14-cv-00227-LMB-JFA

**EXHIBITS 17-18 IN SUPPORT OF THE JOINT DECLARATION OF
GREGORY M. CASTALDO, JOEL H. BERNSTEIN, AND SUSAN R. PODOLSKY
IN SUPPORT OF PROPOSED CLASS ACTION SETTLEMENT, PLAN OF
ALLOCATION, AND AWARD OF ATTORNEYS' FEES AND EXPENSES**

Exhibit 17

**COMPENDIUM OF CASES CITED
IN CLASS COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
PAYMENT OF LITIGATION EXPENSES AND CLASS REPRESENTATIVES'
REQUESTS FOR REIMBURSEMENT OF EXPENSES**

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TAB 1

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: July 18, 2007

In re AMERICAN EXPRESS FINANCIAL
ADVISORS SECURITIES LITIGATION

Master File No. 04 Civ. 1773 (DAB)

ORDER AND FINAL JUDGMENT

On July 13, 2007, the Court held a hearing to determine (1) whether the terms and conditions of the Stipulation of Settlement dated January 18, 2007 (“Stipulation”)¹ are fair, reasonable, and adequate for the settlement of all claims asserted on behalf of the Class in the above-captioned Action, including the release of Defendants, Nominal Defendants, and the other Released Persons, and should be approved; (2) whether judgment should be entered dismissing the Action on the merits and with prejudice in favor of Defendants and Nominal Defendants and as against all Class Members who are not Opt-Outs; (3) whether the Plan of Allocation proposed by Plaintiffs’ Co-Lead Counsel is a fair, reasonable, and adequate method of allocating the settlement proceeds among the Class Members; (4) whether and in what amount Plaintiffs’ Co-Lead Counsel should be awarded attorneys’ fees and reimbursement of expenses; and (5) whether and in what amount incentive awards should be given to the lead plaintiffs in the instant action and in a related action, known as *Haritos v. American Express Financial Advisors, Inc.*, Case No. 02-2255 PHX-PGR, pending in the United States District Court for the District of Arizona (“Haritos”).

1. All defined terms have the same meaning as defined in the Stipulation of Settlement dated January 18, 2007.

The Court, having considered all matters submitted to it at the hearing and otherwise; and it appearing from the submissions of the parties that, in accordance with the Court's Order Provisionally Certifying Class, Directing Dissemination of Notice, and Setting Settlement Fairness Hearing, dated February 14, 2007 ("Notice Order"), a notice of the Settlement and Final Fairness Hearing, substantially in the form approved by the Court, was mailed to all Class Members who could be identified with reasonable effort, using the information provided by Defendant American Express Financial Advisors, Inc. or its successor, Ameriprise Financial Services, Inc. (collectively, "AEFA"), pursuant to the Notice Order; and it appearing that a summary notice of the Settlement and Final Fairness Hearing, substantially in the form approved by the Court, was published once in the national edition of The Wall Street Journal and Parade Magazine in accordance with the Notice Order; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested by Plaintiffs' Co-Lead Counsel; and all defined terms used herein having the meanings as set forth and defined in the Stipulation,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, Plaintiffs, all Class Members, and Defendants.
2. The Court makes a final determination that, for the purposes of the Settlement, the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that (a) the Class is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) Plaintiffs' claims are typical of the claims of the Class they seek to represent; (d) Plaintiffs and their counsel will fairly and adequately represent the interests of the Class; (e) questions of

law and fact common to the Class Members predominate over questions affecting only individual members of the Class; and (f) a class action settlement is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and, for the purposes of the Settlement, this Court hereby makes final its certification of the Action as a class action on behalf of the following Class:

All Persons who, at any time during the Class Period:

- (i) Paid a fee for financial advice, financial planning, or Financial Advisory Services;
- (ii) Purchased any of the Non-Proprietary Funds through AEFA or for which AEFA was listed as the broker;
- (iii) Purchased any of the AXP Funds through AEFA or for which AEFA was listed as the broker; and/or;
- (iv) Paid a fee for financial advice, financial planning, or other financial advisory services rendered in connection with an SPS, WMS and/or SMA account.

Excluded from the Class are Defendants, Nominal Defendants, members of Defendant James M. Cracchiolo's immediate family, any entity in which any Defendant or Nominal Defendant has or had a controlling interest, and the employees, agents, legal affiliates, or representatives who had been employees, agents, legal affiliates or representatives during the Class Period, heirs, controlling persons, successors, and predecessors in interest or assigns of any such excluded party, and all persons and entities who timely and properly requested exclusion from the Class pursuant to the Mailed Notice or Publication Notice disseminated in accordance with the Notice

Order, and six persons whose tardy exclusions are excused due to extenuating circumstances.

Those six persons are: Carroll Neinhaus, James King, Dorothy King, Muriel Wester, Joseph Centineo and Ester Saabye.

4. Plaintiffs assert claims against Defendants under Sections 12(a)(2) and 15 of the Securities Act of 1933; Section 10(b) of the Securities Exchange Act of 1934 and Securities and Exchange Commission Rules 10b-5(a)-(c) and 10b-10 promulgated thereunder; Section 20(a) of the Securities Exchange Act of 1934; the Investment Advisers Act of 1940, 15 U.S.C. §§ 80b-5, 80b-6; the Minnesota Uniform Deceptive Trade Practices Act, Minnesota Consumer Fraud Act, Minnesota False Advertisement Act, and Minnesota Unlawful Trade Practices Act; and for breach of fiduciary duty and unjust enrichment. The Complaint alleges that Defendants engaged in a common course of conduct that included, among other things, misrepresentations and omissions in connection with the (a) marketing and sale of financial plans and advice to Defendants' clients; (b) the marketing, recommending, and sale of certain non-proprietary mutual funds that paid inadequately disclosed compensation to Defendants for such promotion; and (c) the marketing, recommending, and sale of Defendants' proprietary mutual funds and other proprietary products. For purposes of the Settlement only, the Court makes final its certification of these claims for class treatment.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby makes final its appointment of Plaintiffs (Leonard D. Caldwell, Carol M. Anderson, Donald G. Dobbs, Kathie Kerr, Susan M. Rangeley, and Patrick J. Wollmering) as representatives of the Class for purposes of the Settlement.

6. Having considered the factors described in Rule 23(g)(1) of the Federal Rules of Civil Procedure, the Court hereby makes final its appointment of Plaintiffs' counsel, the law

firms of Girard Gibbs LLP, Milberg Weiss LLP, and Stull Stull & Brody, as counsel for the Class for purposes of the Settlement.

7. In accordance with the Notice Order, individual notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Class Members who could be identified with reasonable effort, using the information provided by Defendant AEFA, supplemented by published notice. The form and method of notifying the Class of the pendency of the Action as a class action, the terms and conditions of the Settlement, and the Final Fairness Hearing met the requirements of Rule 23 of the Federal Rules of Civil Procedure; Section 21D(a)(7) of the Securities Exchange Act of 1934 (as amended by the Private Securities Litigation Reform Act of 1995), 15 U.S.C. § 78u-4(a)(7); and due process, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

8. The Settlement is approved as fair, reasonable, and adequate, and the Parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation.

9. The Complaint, which the Court finds was filed on a good-faith basis in accordance with the Private Securities Litigation Reform Act of 1995, based upon publicly available information, is hereby dismissed with prejudice and without costs, except as provided in the Stipulation, as against Defendants.

10. Class Members, and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing, or prosecuting, either directly or in any other capacity, any and all Released Claims against any and all Released Persons. The Released Claims are hereby compromised, settled, released, discharged, and dismissed as to all

Class Members and their successors and assigns and as against the Released Persons on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

11. Defendants and Nominal Defendants and their successors and assigns are hereby permanently barred and enjoined from instituting, commencing, or prosecuting, either directly or in any other capacity, any and all Settled Defendants' Claims against any Plaintiffs, Class Members, or their attorneys. The Settled Defendants' Claims of all Defendants and Nominal Defendants are hereby compromised, settled, released, discharged, and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

12. The Released Persons are hereby discharged from all claims for indemnity and contribution by any person or entity, whether arising under state, federal or common law, based upon, arising out of, relating to or in connection with the Released Claims of the Class or any Class Member, other than claims for indemnity or contribution asserted by a Released Person against another Released Person. Accordingly, the Court hereby bars all claims for indemnity and/or contribution by or against the Released Persons based upon, arising out of, relating to, or in connection with the Released Claims of the Class or any Class Member; provided, however, that this bar order does not prevent any Released Person from asserting a claim for indemnity or contribution against another Released Person.

13. Neither this Order and Final Judgment, nor the Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against Defendants or Nominal Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any Defendant with respect to the truth of any fact alleged by Plaintiffs, the

certification of the class, or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of Defendants or Nominal Defendants;

(b) offered or received against Defendants or Nominal Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by any Defendant or Nominal Defendant;

(c) offered or received against Defendants or Nominal Defendants as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any Defendant or Nominal Defendant, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; provided, however, that Defendants and/or Nominal Defendants may refer to this Order and Final Judgment and/or the Stipulation to effectuate the liability protection granted them thereunder;

(d) construed as an admission or concession that the consideration given under the Stipulation represents the amount which could be or would have been recovered after dispositive motions or trial; or

(e) construed as or received in evidence as an admission, concession, or presumption against Plaintiffs or any Class Members that any of their claims are without merit, or that any defenses asserted by Defendants or Nominal Defendants have any merit, or that damages recoverable under the Complaint would not have exceeded the Settlement Payment.

14. The Plan of Allocation proposed by Plaintiffs' Co-Lead Counsel for allocating the proceeds of the Settlement is approved as fair, reasonable, and adequate, and the Claims Administrator is directed to administer the Settlement and allocate the Settlement Fund in accordance with its terms and provisions.

15. The Court finds that all Parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

16. Plaintiffs' Co-Lead Counsel are hereby awarded 27 percent of the Settlement Fund in attorneys' fees, which sum the Court finds to be fair and reasonable, and \$597,204 in reimbursement of expenses, which fees and expenses shall be paid to Plaintiffs' Co-Lead Counsel from the Settlement Fund with interest at the same net rate that the Settlement Fund earns, from the date the Court approves the Fee and Expense Award. Plaintiffs' Co-Lead Counsel shall allocate the award of attorneys' fees among themselves according to their own agreement, and among any other counsel in a fashion that, in the opinion of Plaintiffs' Co-Lead Counsel, fairly compensates such counsel for their contribution to the prosecution of the Action.

17. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) The Settlement has created a fund of \$100,000,000 in cash that is already on deposit, plus interest thereon, and that numerous Class Members who file acceptable Proof of Claim forms will benefit from the Settlement created by Plaintiffs' Co-Lead Counsel;

(b) The Settlement obligates Defendants to pay all reasonable expenses of notice and settlement administration and to adopt remedial measures negotiated with Plaintiffs' Co-Lead Counsel and designed to address the issues giving rise to the Action;

(c) Over 3,012,814 copies of the Settlement Notice were disseminated to putative Class Members indicating that Plaintiffs' Co-Lead Counsel were moving for attorneys' fees and reimbursement of expenses in the requested amounts, and there were approximately 80 written comments and objections in opposition to the proposed Settlement and/or the fees and expenses requested by Plaintiffs' Co-Lead Counsel which have been considered by the Court and the Court overrules;

(d) Plaintiffs' Co-Lead Counsel have conducted the litigation and achieved the Settlement with skill, perseverance, and diligent advocacy;

(e) The Action involves complex factual and legal issues and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of such issues;

(f) Had Plaintiffs' Co-Lead Counsel not achieved the Settlement, there would remain a significant risk that the Class would recover significantly less or nothing from Defendants and/or Nominal Defendants;

(g) Plaintiffs' Co-Lead Counsel have submitted affidavits showing that they expended over 24,000 hours, with a lodestar value of \$9,572,865, in prosecuting the Action and achieving the Settlement; and

(h) The amounts of attorneys' fees awarded and expenses reimbursed from the Settlement Fund are consistent with awards in similar cases.

18. Plaintiffs' Co-Lead Counsel are authorized to pay, from the amount awarded by the Court for attorneys' fees, incentive awards of \$5,000 each to each of the six class representatives in this action and each of the five plaintiffs in the related Haritos case.

19. Exclusive jurisdiction is hereby retained over the Parties and the Class Members for all matters relating to this Action and the Settlement, including (a) the administration, interpretation, effectuation, or enforcement of the Stipulation and this Order and Final Judgment; (b) any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the Class Members; (c) any dispute over attorneys' fees or expenses sought in connection with the Action or the Settlement; and (d) determination whether, in the event an appeal is taken from any aspect of the Judgment approving the Settlement or any award of attorneys' fees, notice should be given under Federal Rule of Civil Procedure 23(d), at the appellant's expense, to some or all members of the Class apprising them of the pendency of the appeal and such other matters as the Court may order.

20. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

DATED: July 18, 2007

Deborah A. Batts
THE HONORABLE DEBORAH A. BATTS
UNITED STATES DISTRICT JUDGE

TAB 2

FILED 4/11/02
 ENTERED
 LOGGED RECEIVED

APR 10 2002

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 BY WESTERN DISTRICT OF WASHINGTON
 DEPUTY

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

IN RE

BOEING SECURITIES LITIGATION

NO. C97-1715Z

CLASS ACTION

THIS DOCUMENT RELATES TO:

ORDER

Following notice and hearing as required by Fed. R. Civ. P. 23, this securities class action settled for \$92.5 million in cash. The attorneys for plaintiffs and class members ("class counsel")¹ have requested an award of attorney fees and expenses to be paid from the common fund generated by this settlement. Class counsel have requested 30% of the net common fund in fees, which amounts to \$26,362,470, plus an additional \$4,625,099 in expenses. After considering the extensive briefing submitted by class counsel in support of this request, hearing from class counsel during a lengthy fee hearing, receiving only one written objection to this request, and taking the matter under advisement, the Court awards \$21,200,579 in fees, which is 25% of the net common fund, plus \$7,697,684 in expenses.

¹Twenty-seven law firms are requesting fees in this matter. At the outset of the litigation, the Court appointed Hagens Berman LLP ("Hagens Berman") and Milberg Weiss Bershad Hynes & Lerach LLP ("Milberg Weiss") lead counsel. A third firm, Kirby McInerney & Squire LLP, also performed significant work. The total fees reported by these three firms (\$18,615,071) represent 95.5% of the total fees reported in class counsel's lodestar calculation.

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1 This total award reasonably compensates class counsel for the work performed and risk
2 borne in this action.

3 **DISCUSSION**

4 **A. Attorney Fees**

5 The Supreme Court has long recognized the right of an attorney whose efforts create a
6 common fund for the benefit of others to recover a reasonable fee from that fund. Boeing
7 Co. v. Van Gemert, 444 U.S. 472, 478 (1980). A court reviewing fee requests in common
8 fund cases may use either the “lodestar” or “percentage” method. In re Washington Public
9 Power Supply System Sec. Litig., 19 F.3d 1291, 1296 (9th Cir. 1994). The Ninth Circuit has
10 summarized these approaches as follows:

11 Under the lodestar/multiplier method, the district court first calculates
12 the “lodestar” by multiplying the reasonable hours expended by a reasonable
13 hourly rate. The court may then enhance the lodestar with a “multiplier,” if
14 necessary, to arrive at a reasonable fee. Under the percentage method, the
15 court simply awards the attorneys a percentage of the fund sufficient to
16 provide plaintiffs’ attorneys with a reasonable fee.

17 Id. at 1294 n.2 (citations omitted). Regardless of the approach adopted, fee awards must be
18 reasonable under the circumstances. Id. at 1296; see also Private Securities Litigation
19 Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(6) (“Total attorneys’ fees and
20 expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable
21 percentage of the amount of any damages and prejudgment interest actually paid to the
22 class.”). Furthermore, because a request for fees and expenses from the common fund pits
23 the interests of the class members against those of class counsel, “the district court must
24 assume the role of fiduciary for the class plaintiffs.” In re WPPSS, 19 F.3d at 1302.

25 The percentage method provides the most efficient approach in this case. The fact
26 that 133 attorneys have reported a total of over 68,000 hours, combined with the fact that

1 only one objection to the fee request has been lodged with the Court out of a settlement class
2 of over 264,000 potential members, suggests that a comprehensive audit required by the
3 lodestar approach would provide little benefit at a great cost of judicial resources. However,
4 because a lodestar calculation can provide a cross-check on the reasonableness on the result
5 reached under the percentage approach, see Vizcaino v. Microsoft, 142 F. Supp. 2d 1299,
6 1302 (W.D. Wash. 2001), the Court has engaged in a simplified lodestar calculation below.

7 **1. Gross or Net of Common Fund**

8 The first step in calculating a percentage award is determining whether the percentage
9 should be taken from the gross common fund, or recovery net of expenses. The decision
10 whether to use the net or gross recovery lies within the district court's discretion, "so long as
11 the end result is reasonable." Powers v. Eichen, 229 F.3d 1249, 1258 (9th Cir. 2000). An
12 award of the percentage of the net recovery results in a sharing of the benefit actually
13 obtained by counsel on behalf of the class, and avoids awarding a percentage of expenses to
14 counsel as fees. See In re Immunex Sec. Litig., 864 F. Supp. 142, 145 (W.D. Wash. 1994).
15 Therefore, the Court will award a percentage fee based on the net award to the class, after
16 deducting expenses.

17 **2. Calculating a Reasonable Percentage**

18 The next step is determining what percentage of the net is in fact reasonable. The
19 benchmark for percentage awards in the Ninth Circuit is 25%. Paul, Johnson, Alston, &
20 Hunt v. Graulity, 886 F.2d 268, 272 (9th Cir. 1989). "Special circumstances" may warrant
21 departure from this benchmark. Six (6) Mexican Workers v. Arizona Citrus Growers, 904 F.
22 2d 1301, 1311 (9th Cir. 1990). The court may adjust this percentage upwards or downwards
23 as long as the record reflects the reasons for departure. Powers, 229 F.3d at 1256-57 (9th
24 Cir. 2000). In their briefing and at oral argument on this question, class counsel analyzed the
25 following factors in their effort to justify a fee award of 30% of the net recovery: (1) the
26 result obtained; (2) the quality of representation; (3) the novelty and difficulty of the

1 questions presented; (4) the risks of the litigation; (5) the incentives to competent
 2 representation; and (6) counsel's customary fee. While the Ninth Circuit has indicated that
 3 the purpose of the Court's analysis is the determination of a reasonable fee and not the
 4 application of a "mechanical or formulaic approach," Powers, 229 F.3d at 1256, these factors
 5 are substantially similar to approaches adopted in the Second and Third Circuits. See
 6 Goldberger v. Integrated Resources, Inc., 209 F.3d 43, 50 (2d Cir. 2000); In re Prudential Ins.
 7 Co. of Am. Sales Practices Litig., 148 F.3d 283, 336-40 (3d Cir. 1998). Upon examining
 8 these factors, the Court reaches the conclusion that a fee award of 25% of the net settlement
 9 is reasonable under the circumstances.

10 **a. Results obtained**

11 Class counsel first argue that the result obtained on behalf of the class supports an
 12 enhancement of the 25% benchmark. Class counsel have indicated that the \$92.5 million
 13 settlement alternatively represents a recovery of 8.9% to 13.7% of maximum potential
 14 damages (\$1.03 billion), or 20.5% to 30% of estimated realistic damages (\$450 million).²
 15 Class counsel label their result "exceptional" in comparison to the median recovery of 5.1%
 16 of estimated damages in 303 settlements analyzed in a study prepared in conjunction with the
 17 Stanford Law School Securities Class Action Clearinghouse.³ Cornerstone Research, Post-
 18 Reform Act Securities Case Settlements, Cases Reported Through December 2001 5 (2002),
 19 available at http://securities.stanford.edu/Settlements/REVIEW_1995-2001/Settlements.pdf.
 20 This figure is misleading as it merely represents a median recovery in all the cases surveyed,
 21 when the median settlement amount was merely \$5.5 million. Id. at 4.

22
 23 ²These ranges depend on whether possible damages are calculated based on total shares
 24 traded during the class period or based only on those shares likely to claim a share of recovery.

25 ³This study provides the following analysis, among other statistics: in 303 securities cases
 26 filed after enactment of the PSLRA and settled by the end of 2001, the median settlement
 resulted in a 5.1% recovery of estimated damages; this number was the same in the Ninth
 Circuit; and the median settlement in 242 cases based on Rule 10b-5 allegations (like here)
 resulted in a 4.85% recovery of estimated damages. 2002 Cornerstone Study at 5-6, 8.

1 A more accurate comparison comes from three securities class actions that settled in
2 2001 for over \$75 million.⁴ The sizes of these settlements suggest substantive merits,
3 procedural complexities, and adversarial rigors similar to this action. The ratio of settlement
4 amounts to maximum potential damages in these cases ranged from 9.65% to 17.7%, with
5 one case indicating a realistic recovery of 53%. In re Sunbeam Sec. Litig., 176 F. Supp. 2d
6 1323, 1331 (S.D. Fla. 2001) (settlement recovered 10.7% of maximum potential damages,
7 53% of realistic damages); In re MicroStrategy, Inc. Sec. Litig., 148 F. Supp. 2d 654, 666-67
8 (E.D. Va. 2001) (settlement recovered 12.8%-17.7% of maximum potential damages); In re
9 Rite Aid Corp. Sec. Litig., 146 F. Supp. 2d 706, 715 (E.D. Pa. 2001) (settlement recovered
10 9.65% of maximum potential damages). The MicroStrategy court also noted settlements
11 recovering a range of 5-16% of potential damages. In re MicroStrategy, 148 F. Supp. 2d at
12 666 n.22. While the recovery here (8.9%-13.7% of potential damages) was reasonable in
13 comparison to these other settlements, it was by no means “exceptional.” Thus, an
14 enhancement of the benchmark based on the result is not warranted.

15 **b. Quality of work**

16 Next, counsel argue that the skill required and quality of work performed support
17 enhancement. The Court finds that lead counsel, who performed the majority of work on this
18 matter, were highly competent in prosecuting this complex action in a vigorous yet efficient
19 manner. However, as will be shown in the cross-check via the lodestar method, a 25% award
20 will adequately award this skill by recognizing hourly rates that compensate for this skill
21 while permitting a reasonable multiplier as additional recognition of this skill. In addition, as
22 will be shown in the analysis of expenses, counsel did not stand alone in sorting out these
23 claims but had the benefit of some \$4.5 million worth of hired (and salaried) experts for
24

25 _____
26 ⁴The Conerstone/Stanford studies alternately use \$75 million and \$100 million as the threshold for “mega-settlements.” Even settlements of \$100 million or more are relevant here considering the potential damages in this action of \$1.03 billion.

1 every non-legal issue in this action. Reimbursement for these substantial expenses goes a
2 long way in recognizing the skill involved.

3 **c. Complexity of issues**

4 Counsel also point to the novelty and difficulty of the questions presented as
5 supporting enhancement. The Court agrees that this was a difficult and complex matter.
6 Boeing's accounting system is unique, plaintiffs successfully pursued the novel legal theory
7 of "tandem trading," and defendants mounted a vigorous defense. This case was the most
8 complicated, complex, hotly contested litigation this Court has been involved with in almost
9 fourteen years on the bench. This factor does support enhancement.

10 **d. Risks of litigation**

11 Counsel also argue that the risks of the litigation support enhancement. The Court,
12 however, disagrees that this litigation presented any additional risk apart from other
13 securities actions. Plaintiffs had already cleared most of the procedural hurdles enacted by
14 the PSLRA. While substantive risk remained, including the proof of scienter at trial, the
15 Court believes that the settlement itself reflects the avoided risks of going forward. Any risk
16 of proceeding would have been a function more of those risks inherent in litigation, not risks
17 unique to this action. Counsel point to external factors like suing a defense contractor in the
18 wake of September 11, and suing one of Washington's largest employers in its own
19 backyard, but the Court must assume that any jury would have been fair and impartial. While
20 counsel did risk five years of litigation without payment (while carrying significant expenses
21 on their books), the lodestar cross-check below shows that an award of 25% of the net
22 recovery permits hourly rates and a resulting multiplier that adequately compensate for this
23 risk by more than accounting for the time value of money not paid to counsel in the course of
24 this litigation. Finally, the actual recovery here is risk-free: the entire settlement fund is to be
25 paid in cash by Boeing's insurers, not by any of the defendants in the future. Class members
26 will be paid, and class counsel will receive their fees, without any further litigation and

1 without any discount against future recovery. Therefore, the risks of this action are not
2 sufficient to enhance the benchmark.

3 **e. Incentive and customary fees**

4 Counsel's two final factors do not support enhancement. First, counsel seek an
5 enhancement in order to ensure incentives to quality representation in the future. The Court
6 notes, however, that the preeminent securities litigation firms in the country fought for the
7 first chair in this action, while an award of \$21.2 million in fees is sufficient incentive to
8 ensure high-quality representation in the future. Second, counsel argue that their customary
9 contingent fee of 33% justifies a fee of 30% here. But the Ninth Circuit has declared 25%
10 the customary fee in common fund cases. This factor cannot justify an enhancement.

11 **f. Comparison to other awards and objections**

12 Two further factors bear consideration. First, an award of 25% of the net recovery is
13 consistent with three "mega-settlements" reached in 2001 and mentioned above. See In re
14 Sunbeam Litig., 176 F. Supp. 2d at 1334 (approving 25% award); In re MicroStrategy, Inc.
15 Sec. Litig., 172 F. Supp. 2d 778, 789-90 (E.D. Va. 2001) (approving 18% award); In re Rite
16 Aid Corp. Sec. Litig., 146 F. Supp. 2d at 735-36 (approving 25% award and noting
17 settlements over \$52 million with fee awards ranging from 18% to 37% of settlement). Class
18 counsel point to several cases where counsel were awarded 30% or more of the common
19 fund in fees, while conveniently failing to mention the three cases cited above despite
20 Milberg Weiss's involvement in all three. While courts have readily awarded 30% of the net
21 settlement fund in similar circumstances, see, e.g., In re Ikon Office Solutions, Inc., Sec.
22 Litig., 194 F.R.D. 166, 197 (E.D. Pa. 2000), these awards merely indicate that 30% is within
23 the range of reasonable awards. These awards do not compel the conclusion that 25% of net
24 is unreasonable.

25 Lastly, the Court finds it significant that out of a settlement class of over 264,000
26 potential members, only one person has objected to this fee request. Class counsel dispute

1 whether this objector is even a valid class member, but even assuming that he is, this dearth
2 of objections is meaningful, especially where several institutional investors (with the
3 incentive to challenge this award) are class members. This consideration justifies an
4 enhancement.

5 **g. Conclusion: 25% of net is reasonable**

6 The Court finds that skilled counsel recovered a substantial amount in a complex
7 matter that imposed significant financial risk and in which only one objection to the fee
8 request has been lodged. An award of 25% of net settlement is consistent with awards in
9 similar actions and will adequately compensate class counsel for the result, counsel's
10 competence, the complexity of this matter, and the financial risks assumed. The only
11 remaining consideration (the lack of objection) favoring an enhancement of the Ninth
12 Circuit's benchmark is not a "special circumstance" compelling enhancement nor does it
13 outweigh the factors suggesting that no enhancement is necessary. Therefore, the Court finds
14 that a fees award of 25% of net recovery is reasonable under the circumstances here. While
15 calculation of the net is explained below, the Court finds net recovery to be \$84,802,316.
16 Thus, class counsel are entitled to a fees award of \$21,200,579 from the common fund.

17 **3. Lodestar Cross-Check**

18 A cross-check using the lodestar method demonstrates that an award of 25% of the net
19 common fund is reasonable. This analysis reveals that the award provides a 1.476 multiplier
20 of counsel's lodestar. The Third Circuit has noted that an acceptable multiplier range is 1.35
21 to 2.99. In re Cendant Corp. PRIDES Litig., 243 F.3d 722, 742 (3d Cir. 2001). Given that
22 class counsel's initial fee request of 30% of the net common fund produced a lodestar
23 multiplier of 1.35, the fact that an award of 25% of the net actually increases the multiplier
24 after certain adjustments to the net recovery and to the lodestar indicates that the 25% award
25 is fair and reasonable.

1 An award of 25% of the net recovery actually increases the multiplier requested by
2 class counsel due to reductions the Court believes are necessary in both the net award and the
3 lodestar. Calculation of the lodestar requires determining both reasonable hours expended
4 and reasonable rates. See In re WPPSS Sec. Litig., 19 F.3d at 1294 n.2. Counsel initially
5 calculated a lodestar of \$19,499,288. This figure includes over 68,000 hours of work
6 reported by 133 attorneys. At the fees hearing, the Court questioned whether this figure was
7 reasonable. Counsel proposed several alternative reductions in this amount, including
8 subtracting all hours by attorneys reporting less than 150 hours, normalizing out-of-town
9 counsel's rates to Seattle rates, and even a flat 25% reduction in hours. Instead of these
10 approaches, the Court has reduced the lodestar in other ways discussed below. The Court
11 believes the resulting figure accurately reflects the value of the legal hours spent on
12 procuring this settlement on behalf of class members.

13 **a. Milberg Weiss in-house experts**

14 The most significant reduction in the lodestar also requires a reduction in the net
15 settlement. As part of its lodestar calculation, Milberg Weiss has included \$3,072,585 in
16 salaries paid to in-house experts. At the fee hearing, counsel indicated that these experts
17 performed non-legal work. Indeed, the vast majority of this amount went to in-house
18 forensic accountants. Because the lodestar represents reasonable attorney fees, the fees for
19 these experts are properly compensable as a litigation expense, just as the expenses for
20 counsel's hired experts. The fact that these experts are employed by Milberg Weiss does not
21 require a different result. As a result, both the lodestar and the net settlement should be
22 reduced by this amount.

23 **b. Reasonable hourly rate**

24 A key aspect of the lodestar analysis is determining a reasonable hourly rate for the
25 attorneys. Although initially concerned with the reasonableness of New York and San
26 Francisco rates in a Seattle-based litigation, the Court realizes that class counsel based in

1 New York and San Francisco live and work in cities with higher costs of living and
2 subsequently higher hourly rates than attorneys in Seattle. Therefore, the Court concludes
3 that normalization of hourly rates to those charged in Seattle is not necessary.

4 However, the Court does believe that some adjustment based on the value that certain
5 lawyers can be expected to add to the litigation is necessary. Specifically, the Court believes
6 that the hourly rates charged by the two attorneys who spent the most time on this case
7 require some adjustment. Clyde Platt is a junior partner at Hagens Berman with no trial
8 experience; Mr. Platt listed an hourly rate of \$410. Randi Bandman is a junior partner at
9 Milberg Weiss with no trial experience; Ms. Bandman listed an hourly rate of \$420. In
10 comparison, Steve Berman, the managing partner at Hagens Berman who is a very
11 experienced class action litigator and who managed the course of this action, listed an hourly
12 rate of \$420. While the Court does not question the quality of Platt and Bandman's work nor
13 their importance to this particular action, the Court is uncomfortable accepting that one hour
14 of these attorneys' efforts is worth almost the same as one hour of Berman's efforts, in this or
15 any other market.⁵ For purposes of this lodestar analysis, the Court therefore believes that a
16 reasonable hourly rate for these attorneys is \$325. This adjustment reduces the lodestar by
17 \$714,544 in the case of Mr. Platt and \$577,552 in the case of Ms. Bandman. (In addition, the
18 reduction of Ms. Bandman's rate requires a corresponding reduction in the hourly rate of
19 Milberg Weiss senior associate Elisabeth Bowman from \$375 to \$300, with a lodestar
20 reduction of \$17,606.)

21 **c. Reasonable hours**

22 In calculating the lodestar, class counsel have reported 68,759 hours of legal labor
23 expended on this action in over four years of litigation. This figure includes hours reported
24

25 ⁵The Court particularly questions these rates given that counsel suggested at the fee
26 hearing that these rates may bear little relation to actual market rates, given that these attorneys
only bill by the hour in approximately 1% of their cases. Counsel's unsupported suggestion that
defense counsel in this action might charge more than \$400 per hour for junior partners with no
trial experience does not compel the use of these rates.

1 by partners, associates, and paralegals. This figure is unquestionably large, but the Court
 2 believes that it is generally reasonable given the complexity and adversarial posture of this
 3 action. See In re Sunbeam, 176 F. Supp. 2d at 132 (noting more than 80,500 total hours); In
 4 re MicroStrategy, 172 F. Supp. 2d at 788 (noting 37,007 hours).

5 However, the Court believes that some inefficiency and duplication of effort is
 6 inevitable when 133 attorneys report time in a single action. At the fee hearing, counsel
 7 testified that Mr. Berman managed the litigation with a keen eye toward efficiency and the
 8 Court accepts this testimony. Furthermore, an examination of certain hours recorded for
 9 depositions indicates that counsel made significant attempts to send only one or two attorneys
 10 to a deposition, while using geographically proximate attorneys wherever practical. This
 11 effort to reduce attorney hours and travel time on depositions can reasonably be extrapolated
 12 to the total hours spent on this litigation. Furthermore, the Court does not believe that the
 13 work of attorneys who reported less than 150 hours should be ignored. Therefore, the Court
 14 believes a modest reduction of 5% is an appropriate discount for duplication and inefficiency
 15 for purposes of this lodestar cross-check. As this reduction is to be taken only after the
 16 reductions stated above so as not to discount for a discount, the total reduction is \$755,850.

17 **d. Comparison of adjusted lodestar**

18 After making the above-mentioned adjustments, the new lodestar is \$14,361,151.⁶ An
 19 award of 25% of the net settlement thus produces a lodestar multiplier of 1.476.⁷ This
 20 multiplier is not only within the range of similar cases, it adequately compensates counsel for
 21 the quality of their representation as well as the risk of not receiving payment in this matter.
 22 The attorneys' skillful representation is in fact doubly rewarded: their normal hourly rates,
 23 approximations of the market value of these attorneys' skill, are enhanced by a multiplier that

24
 25 ⁶Original lodestar (\$19,499,288) less Platt reduction (\$714,544) less Bandman reduction
 26 (\$577,552) less Bowman reduction (\$17,606) less in-house experts (\$3,072,585) equals
 \$15,117,001, less 5% efficiency reduction (\$755,850) equals \$14,361,151.

⁷The net settlement (\$84,802,316) multiplied by .25 yields \$21,200,579, which when
 divided by the lodestar (\$14,361,151) yields a multiplier of 1.476.

1 is based in part on the quality of the representation. Furthermore, as the Court noted above,
2 counsel faced the very real risk of not succeeding and thus not getting paid while carrying
3 significant expenses during the course of litigation (including no income from this matter for
4 over four years). However, this multiplier represents almost a 50% return on the hours for
5 which counsel would have been paid had they been paid each month from the outset. Even
6 compared to the corresponding market returns from 1997-2002 (when counsel would have
7 had this money), this multiplier reasonably compensates counsel for the risk of not being paid
8 or not having money presently in hand. This cross-check thus indicates that the \$21,200,579
9 awarded in fees as 25% of the net settlement is reasonable.

10 **B. Expenses**

11 Counsel also request reimbursement for their litigation expenses from the common
12 fund. The Ninth Circuit has indicated that counsel in common fund cases may recover those
13 expenses that “would normally be charged to a fee paying client.” Harris v. Marhoefer, 24
14 F.3d 16, 19 (9th Cir. 1994). The PSLRA also permits an award of expenses in securities
15 litigation cases. See 15 U.S.C. § 78u-4(a)(6).

16 Counsel have requested \$4,625,099 in litigation expenses. As noted above, the Court
17 has moved an additional \$3,072,585 paid to Milberg Weiss’s in-house experts from attorney
18 fees to expenses, thus resulting in a total request for expenses of \$7,697,684. While this
19 figure is high, it accurately reflects the complexity of this matter. The total requested
20 expenses include approximately \$4.5 million in payments to experts who were a crucial part
21 of class counsel’s management of this litigation. In addition to the areas of expertise
22 necessary to prosecute a securities fraud case, Boeing’s unique manufacturing and
23 accounting practices presented a steep learning curve for class counsel. Had counsel
24 attempted to master these processes themselves, attorney fees undoubtedly would have
25 ballooned with inefficiencies. Furthermore, the significant reliance on Milberg Weiss’s
26 forensic accountants actually kept costs down by avoiding the substantially greater fees

1 charged by outside experts. While counsel might have reduced the approximately \$1.1
2 million spent on photocopying (exclusive of class notices), counsel represented at the fee
3 hearing that discovery in this matter was extensive. Significant photocopying expenses
4 incurred in over four years of litigation are not unreasonable.


5 The time value of money also suggests that the expenses requested are reasonable.
6 Counsel assumed over \$7.5 million in out-of-pocket expenses on behalf of the class in this
7 litigation. There was a risk that this money would not be repaid. More importantly, class
8 counsel assumed these expenses over the course of over four years of intense litigation. To
9 the extent that any expenses might appear overstated, the Court is convinced that any
10 "inflation" simply reflects the value of these expenses to counsel in today's dollars.

11 **CONCLUSION**

12 The Court awards class counsel 25% of the net settlement for a total of \$21,200,579 in
13 attorney fees, plus \$7,697,684 in expenses from the common fund. This total award
14 reasonably compensates counsel given the complexity of this action, the high quality of
15 representation, and the long-term risk associated with not being paid in over four years.

16 IT IS SO ORDERED.

17 DATED this 10th day of April, 2002.

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21 THOMAS S. ZILLY
22 UNITED STATES DISTRICT JUDGE
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TAB 3

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE BP PRUDHOE BAY ROYALTY
TRUST SECURITIES LITIGATION

) Case No. C06-1505 MJP
)
)
) **ORDER GRANTING AWARD OF**
) **ATTORNEYS' FEES AND**
) **REIMBURSEMENT OF EXPENSES AND**
) **AWARD FOR LEAD PLAINTIFF'S TIME**
) **AND EXPENSES**

ORDER GRANTING AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF EXPENSES AND AWARD
FOR LEAD PLAINTIFF'S TIME AND EXPENSES

No. C06-1505 MJP

1 This matter came before the Court on June 30, 2009, by motion of Lead Counsel for an
2 award of attorneys' fees and reimbursement of expenses and an award for Lead Plaintiff's time
3 and expenses. The Court, having considered all papers filed and proceedings conducted herein,
4 and having reviewed the entire record in the Litigation, and good cause appearing, hereby enters
5 the following order.

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

8 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
9 Stipulation of Settlement, dated March 13, 2009, attached as Exhibit 1 to the Declaration of Dan
10 Drachler in Support of Lead Plaintiff the Teramura Family Trust Group's Unopposed Motion for
11 Entry of the Order Preliminarily Approving Settlement, Approving Notice, and Scheduling
12 Settlement Hearing.

14 2. The Court has jurisdiction over the subject matter of Lead Counsel's motion and
15 all matters relating thereto, including all Class Members who have not timely and validly
16 requested exclusion.

18 3. Lead Counsel is entitled to a fee paid out of the common fund created for the
19 benefit of the Class. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478-79 (1980). The Ninth Circuit
20 recognizes the propriety of the percentage of the fund method when awarding fees. *Vizcaino v.*
21 *Microsoft Corp.*, 290 F. 3d 1043 (9th Cir. 2002).

22 4. The Court adopts the percentage of the fund method of awarding fees in this case,
23 and concludes that the percentage of the fund is the proper method for awarding attorneys' fees in
24 this case.

26
ORDER GRANTING AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF EXPENSES AND AWARD
FOR LEAD PLAINTIFF'S TIME AND EXPENSES

1 5. The Court hereby awards attorneys' fees of _27_% of the Settlement Fund, to be
2 paid from the Settlement Fund, as set forth in § VI of the Stipulation, and to include any interest
3 on such attorneys' fees at the same rate and for the same period as earned by the Settlement Fund
4 (until paid).
5

6 6. The attorneys' fee awarded is fair and reasonable based upon the Court's
7 consideration of the vigorous prosecution of the Litigation by Lead Counsel and certain other
8 factors, including: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the
9 quality of work; (4) the contingent nature of the fee and the financial burden carried by the
10 plaintiffs; and (5) awards made in similar cases.
11

12 7. The objection to the Fee and Expense Application filed by John J. Auld, Jr. and
13 Nancy S. Auld is hereby overruled.

14 8. The Court hereby awards Lead Counsel expenses in the aggregate amount of
15 **\$280,099.79** to be paid as set forth in § VI of the Stipulation, and to include any interest on such
16 expenses at the same rate and for the same period as earned by the Settlement Fund (until paid).
17

18 9. The Court hereby awards to George Allen, the representative of Lead Plaintiff,
19 **\$20,037.50** for time and expenses. This award is consistent with the provision in the Private
20 Securities Litigation Reform Act that allows "the award of reasonable costs and expenses
21 (including lost wages) directly relating to the representation of the Class to any representative
22 party serving on behalf of the class," 15 U.S.C. § 78u-4(a)(4), and is further supported by case
23 law.
24

25 10. The awarded attorneys' fees and expenses, and interest earned thereon, shall be
26 paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations

ORDER GRANTING AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF EXPENSES AND AWARD
FOR LEAD PLAINTIFF'S TIME AND EXPENSES

1 of the Stipulation and in particular § VI thereof, which terms, conditions, and obligations are
2 incorporated herein.

3 IT IS SO ORDERED.

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5 Dated this 30th day of _June_, 2009

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8 Marsha J. Pechman
9 United States District Judge

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11 Presented by: s/Dan Drachler
12 Dan Drachler, WSBA #27728

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ORDER GRANTING AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF EXPENSES AND AWARD
FOR LEAD PLAINTIFF'S TIME AND EXPENSES

TAB 4

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CENTRAL LABORERS' PENSION FUND,

Plaintiff,

No. 04 C-7644

Judge Ronald A. Guzmán

v.

SIRVA, INC., BRIAN P. KELLEY, JOAN E. RYAN,
JAMES W. ROGERS, RICHARD J. SCHNALL,
CARL T. STOCKER, CREDIT SUISSE FIRST
BOSTON LLC, GOLDMAN, SACHS & CO.,
DEUTSCHE BANK SECURITIES INC., CITIGROUP
GLOBAL MARKETS INC., J.P. MORGAN
SECURITIES INC., BANC OF AMERICA
SECURITIES LLC, MORGAN STANLEY & CO.
INCORPORATED, PRICEWATERHOUSECOOPERS
LLP, and CLAYTON DUBILIER & RICE, INC.

Defendants.

ORDER AND FINAL JUDGMENT

On the 2nd day of October, 2007, a hearing having been held before Magistrate Judge Denlow to determine: whether the terms and conditions of the Settlement Agreement filed on June 20, 2007 are fair, reasonable and adequate for the settlement of all claims asserted by Plaintiff on behalf of the Settlement Class against Defendants in the Action now pending in this Court under the above caption, including the release of Defendants and the Releasees, and should be approved; whether judgment should be entered dismissing the Action on the merits and with prejudice in favor of Defendants and as against all persons or entities who are members of the Settlement Class who have not requested exclusion therefrom; whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds among the members of the Settlement Class; and whether and in what amount to award Lead Counsel fees and reimbursement of expenses. The Court having heard from Magistrate Judge Denlow, having

reviewed his Report and Recommendation, and considered all matters submitted at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court was mailed to all persons or entities reasonably identifiable, who purchased or otherwise acquired the common stock of SIRVA, Inc. ("SIRVA") through any public offering or on the open market between November 25, 2003 and January 31, 2005, inclusive ("Settlement Class Period"), as shown by the records of SIRVA's transfer agent, at the respective addresses set forth in such records, and that a summary notice of the hearing substantially in the form approved by the Court was published in *Businesswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested; and all capitalized terms used herein having the meanings as set forth and defined in the Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Class Representative, all Settlement Class Members, and Defendants.
2. The Court finds that the prerequisites for a class action under Federal Rules of Civil Procedure 23(a) and (b)(3) have been satisfied in that: i) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; ii) there are questions of law and fact common to the Settlement Class; iii) the claims of the Class Representative are typical of the claims of the Settlement Class it seeks to represent; iv) the Class Representative has represented, and will represent, fairly and adequately the interests of the Settlement Class; v) the questions of law and fact common to the members of the Settlement

Class predominate over any questions affecting only individual members of the Settlement Class; and vi) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finally certifies this Action as a class action on behalf of a Settlement Class consisting of all persons or entities who purchased or otherwise acquired the common stock of SIRVA through any public offering or on the open market between November 25, 2003 and January 31, 2005, inclusive. Excluded from the Class are: (a) such persons or entities who have submitted valid and timely requests for exclusion from the Settlement Class in accordance with the procedures set out in Section VI of the Settlement Agreement and described in the Notice (as listed on Exhibit 1 annexed hereto); (b) such persons or entities who are Defendants, Family Members of the Individual Defendants, or the legal representatives, heirs, executors, successors, assigns or majority-owned affiliates (including without limitation Clayton, Dubilier & Rice Fund V Limited Partnership ("CD&R Fund V") and Clayton, Dubilier & Rice Fund VI Limited Partnership ("CD&R Fund VI")) of any such excluded person or entity; or (c) any directors or officers of any such excluded person or entity during the Settlement Class Period.

4. Notice of the pendency of this Action as a class action and of the terms and conditions of the Settlement was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of such notice to the Settlement Class: (a) met the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7)—as amended by the Private Securities

Litigation Reform Act of 1995—due process, and any other applicable law; (b) constituted the best notice practicable under the circumstances; and (c) constituted due and sufficient notice to all persons and entities entitled thereto.

5. The Settlement is approved as fair, reasonable and adequate, and the Settlement Class Members and the parties are directed to consummate the Settlement in accordance with the terms and provisions of the Settlement Agreement.

6. The Complaint, which the Court finds was filed in good faith in accordance with the Private Securities Litigation Reform Act and Rule 11 of the Federal Rules of Civil Procedure based upon all publicly available information, is hereby dismissed with prejudice with each party paying his, her or its own costs of court, except as provided in the Settlement Agreement.

7. “Releasces” means all of the following: (a) SIRVA, CD&R, PwC, the Underwriter Defendants, the Insurers (as defined in the Settlement Agreement) and all of their predecessors and present and former parents, subsidiaries and Affiliates, and each and all of their respective past and present directors, managing directors, officers, employees, members, partners, principals, agents, attorneys, advisors, insurers, trustees, administrators, fiduciaries, consultants, representatives, accountants and auditors (including Ernst & Young LLP); and (b) all investment funds sponsored by CD&R, including, without limitation, CD&R Fund V and CD&R Fund VI; and (c) the Individual Defendants and each of their heirs, executors, trusts, trustees, administrators and assigns.

8. Class Representative and members of the Settlement Class are hereby permanently barred and enjoined from instituting, commencing or prosecuting any Claim or Unknown Claim, whether arising under any federal, state, or foreign statutory or common law or rule—including, without limitation, any Claim or Unknown Claim for negligence, gross negligence, negligent misrepresentation, indemnification, breach of contract, breach of any duty, or fraud—that has been, could have been, or could be asserted against any of the Releasees at any time by or on behalf of Lead Plaintiff or any Settlement Class Member, in any capacity, in the Action or in any court, tribunal, or other forum of competent jurisdiction, arising out of or related, directly or indirectly, to the purchase, acquisition, exchange, retention, transfer or sale of, or Investment Decision involving, SIRVA common stock during the Settlement Class Period, or to other matters and facts at issue in the Action. (“Released Claims”) Without limiting the generality of the foregoing, the term Released Claims includes, without limitation, any Claims or Unknown Claims arising out of or relating to: (i) any or all of the acts, failures to act, omissions, facts, events, matters, transactions, occurrences, statements, or representations that have been, could have been or could be directly or indirectly alleged, complained of, asserted, described, or otherwise referred to in this Action; (ii) the contents of any prospectus or SEC Filing relating to SIRVA common stock or SIRVA, including the Registration Statements dated November 24, 2003 and June 10, 2004, during or relating to the Settlement Class Period; (iii) any forward-looking statement made by any of the Releasees during or relating to the Settlement Class Period that have been, could have been or could be directly or indirectly alleged, embraced, complained of, asserted, described, set forth or otherwise referred to in this Action; (iv) any adjustments of financial information of SIRVA during or relating to the Settlement Class Period; (v) any

statements or disclosures of any sort made by any of the Releasees during, or relating in any way to, the Settlement Class Period to any person or entity, or to the public at large, regarding, without limitation, SIRVA's business, its financial condition, its operational results and/or its financial or operational prospects, including, without limitation, any prospectus, press releases and/or press reports, earnings calls, memoranda (whether internally or externally circulated), and presentations to analysts, rating agencies, creditors, banks or other lenders, investment bankers, broker/dealers, investment advisors, investment companies, SIRVA employees, potential investors and/or shareholders; (vi) any internal and/or external accounting and/or actuarial memoranda, reports or opinions relating to SIRVA prepared by or for any of the Releasees during, or relating in any way to, the Settlement Class Period; (vii) SIRVA's accounting practices and procedures, internal accounting controls and recordkeeping practices during or relating in any way to the Settlement Class Period; (viii) any financial statement, audited or unaudited, and any report or opinion on any financial statement relating to SIRVA that was prepared or issued by or for any of the Releasees during, or relating in any way to, the Settlement Class Period, or on which any Settlement Class Member allegedly relied (directly or indirectly) during the Settlement Class Period in purchasing, acquiring, exchanging, retaining, transferring, selling or making an Investment Decision with respect to SIRVA common stock; (ix) any statements or omissions by any of the Releasees as to quarterly or annual results of SIRVA during or relating in any way to the Settlement Class Period; (x) any internal accounting controls or internal audits of SIRVA during or relating in any way to the Settlement Class Period; (xi) any purchases, acquisitions, exchanges, sales, transfers or other trading of SIRVA common stock during or relating in any way to the Settlement Class Period by any of the

Releasees, or any acts taken by Releasees to finance or pay for such trades, including, but not limited to, any profits made or losses avoided in connection with such transactions; and (xii) any or all Claims against an individual Releasee that are based upon or arise out of the Releasee's (a) status as a director, officer or employee of, or investor in, SIRVA; (b) acts or omissions in his or her capacity as a director, officer or employee of, or investor in, SIRVA; (c) acts or omissions in his or her or its capacity as a private equity sponsor of SIRVA; (d) acts or omissions in his or her or its capacity as an underwriter of SIRVA common stock; or (e) acts or omissions in his or her or its capacity as SIRVA's outside auditor or provider of actuarial services. The Released Claims are hereby compromised, settled, released, discharged and dismissed as against the Releasees on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

9. The Releasees are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, rights, causes of action or liabilities, of every nature and description whatsoever, whether based in law or equity, on federal, state, local, statutory or common law or any other law, rule or regulation, including both known Claims and Unknown Claims, that have been or could have been asserted in the Action or any forum by the Releasees or any of them against any of the Plaintiff, Settlement Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action, except for claims to enforce the Settlement. All the claims and Unknown Claims of all the Releasees are hereby compromised, settled, released, discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

10. Defendants, all the Releasees, their heirs, executors, administrators, predecessors, successors, Affiliates, attorneys, and assigns, and any person or entity claiming by or through any of them, are hereby permanently barred and enjoined from commencing or prosecuting (and by operation of law and of this Order & Final Judgment shall have, fully, finally, and forever released, relinquished, settled, and discharged each other from) any and all Claims and Unknown Claims that they could have asserted against each other relating directly or indirectly to the matters alleged in the Action, including but not limited to (i) any claims for indemnification or contribution arising out of the Action, (ii) any claims for breach of fiduciary duty, (iii) any derivative claims, and (iv) any claims for reimbursement of legal fees or costs incurred in defense of the Action (other than the claims for reimbursement of Joan Ryan referred to in this paragraph); provided that nothing in this paragraph shall act to modify, amend, supersede, discharge, or release the terms of the Underwriting Agreements previously entered into by and between SIRVA and the Underwriter Defendants in connection with SIRVA's IPO and SPO, including provisions therein relating to indemnification. Nothing in this paragraph shall act to release or modify any indemnification obligations owed by SIRVA to CD&R or any of the Individual Defendants (including but not limited to, with respect to the Individual Defendants, any indemnification obligations arising under Delaware law or under SIRVA's Charter or By-laws from and after the Final Settlement Date, and, with respect to CD&R, any indemnification obligations arising under the Indemnification Agreement and the Consulting Agreement both dated March 30, 1998 and the Amended and Restated Consulting Agreement dated January 1, 2001, including any amendments thereto or restatements thereof), except that CD&R shall be deemed to have released and settled any and all Claims and Unknown Claims for

indemnification with respect to their obligations pursuant to this Settlement Agreement and with respect to their attorneys' fees and costs in connection with the Action (including such fees and costs incurred in connection with this Settlement Agreement) and except that Joan Ryan shall be reimbursed for reasonable attorneys' fees and expenses related to the Action through the Final Settlement Date.

11. Neither this Order and Final Judgment nor the Settlement Agreement, any of its terms and provisions, the negotiations or proceedings in connection therewith or the documents or statements referred to therein shall be:

(a) offered or received against Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Defendants with respect to the truth of any fact alleged by Plaintiff or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of Defendants;

(b) offered or received against Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Defendant;

(c) offered or received against Defendants as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Defendants, in any other civil, criminal

or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Settlement Agreement; provided, however, that Defendants may refer to it to effectuate the liability protection granted them hereunder;

(d) construed against Defendants as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

(e) construed as or received in evidence as an admission, concession or presumption against Plaintiff or any of the Settlement Class Members that any of their claims are without merit, or that any defenses asserted by Defendants have any merit, or that damages recoverable under the Complaint would not have exceeded the Cash Settlement Fund.

12. The Plan of Allocation is approved as fair and reasonable, and Lead Counsel and the Administrator are directed to administer the Settlement in accordance with the terms and provisions of the Settlement Agreement.

13. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

14. Lead Counsel are hereby awarded 29.85% of the Cash Settlement Fund in fees, which sum the Court finds to be fair and reasonable, and \$898,103.22 in reimbursement of expenses, which expenses shall be paid to Lead Counsel from the Cash Settlement Fund with interest from the date such Cash Settlement Fund was funded to the date of payment at the same net rate that the Cash Settlement Fund earns. The award of attorneys' fees may be allocated

among all of Plaintiffs' Counsel in a fashion which, in the opinion of Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Action.

15. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Cash Settlement Fund, the Court has considered and found that:

(a) the Settlement has created a fund of \$53,300,000.00 in cash that is already on deposit, plus interest thereon, and that numerous Settlement Class Members who submit acceptable Proofs of Claim will benefit from the Settlement achieved by Lead Counsel;

(b) Over 22,907 copies of the Notice were disseminated to putative Settlement Class Members indicating that Lead Counsel was moving for attorneys' fees in an amount not to exceed 33⅓ percent of the Cash Settlement Fund and for reimbursement of expenses in an amount of approximately \$950,000 and only a single objection (which was later withdrawn) was filed against the ceiling on the fees and expenses to be requested by Lead Counsel as disclosed in the Notice;

(c) Lead Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(d) The Action involves complex factual and legal issues and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(c) Had Lead Counsel not achieved the Settlement, there would remain a significant risk that Plaintiff and the Settlement Class may have recovered less or nothing from Defendants;

(f) The amount of attorneys' fees awarded and expenses reimbursed from the Cash Settlement Fund are fair and reasonable and consistent with awards in similar cases.

16. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Settlement Agreement and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Settlement Class.

17. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

SO ORDERED.

ENTERED: October 31, 2007


HON. RONALD A GUZMAN
United States District Judge

TAB 5

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

CITY OF ANN ARBOR EMPLOYEES')
RETIREMENT SYSTEM, on Behalf of)
Itself and All Others Similarly Situated,)

Plaintiff,)

vs.)

Civil Action No. 4:08-cv-02348-TLW-KDW

SONOCO PRODUCTS CO.,)
HARRIS E. DELOACH, JR., and)
CHARLES J. HUPFER,)

Defendants.)

ORDER AWARDING LEAD COUNSEL'S ATTORNEYS' FEES AND EXPENSES

This matter having come before the Court on September 4, 2012, on the application of counsel for the Lead Plaintiff for an award of attorneys' fees and expenses incurred in the captioned action (Doc. # 214), the Court, having considered all papers filed and proceedings conducted herein, having found the settlement of this action to be fair, reasonable, and adequate and otherwise being fully informed in the premises and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation of Settlement dated as of April 26, 2012 (the "Stipulation"), and filed with the Court. (Doc. # 206, attach. 1).

2. This Court has jurisdiction over the subject matter of this application and all matters relating thereto, including all Members of the Class who have not timely and validly requested exclusion.

3. The Court hereby awards Lead Counsel attorneys' fees of 30% of the Settlement Fund, plus expenses in the amount of \$571,133.48, together with the interest earned thereon for the same time period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is appropriate and that the amount of fees awarded is fair and reasonable under the "percentage-of-recovery" method given the substantial risks of non-recovery, the time and effort involved, and the result obtained for the Class.

4. The fees shall be allocated among counsel for Lead Plaintiff by Lead Counsel in a manner that reflects each such counsel's contribution to the institution, prosecution, and resolution of the captioned action.

5. The Court hereby awards Lead Plaintiff \$3,500.00 for the time it spent in assisting in the prosecution of the captioned action.

6. The awarded attorneys' fees and expenses and interest thereon shall immediately be paid to Lead Counsel subject to the terms, conditions, and obligations of the Stipulation, and in particular ¶6.2 thereof, which terms, conditions, and obligations are incorporated.

IT IS SO ORDERED.

s/Terry L. Wooten
TERRY L. WOOTEN
United States District Judge

September 7, 2012

Florence, South Carolina

TAB 6

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



IN RE COMPUTER SCIENCES
CORPORATION SECURITIES LITIGATION

Civ. A. No. 1:11-cv-610-TSE-IDD

**ORDER AWARDING ATTORNEYS'
FEES AND EXPENSES**

On September 19, 2013, a hearing having been held before this Court to determine, among other things, whether and in what amount to award Class Counsel in the above-captioned consolidated securities class action (the "Action"), on behalf of all plaintiff's counsel, fees and litigation expenses directly relating to its representation of the Settlement Class. All capitalized terms used herein having the meanings as set forth and defined in the Stipulation and Agreement of Settlement (the "Stipulation"), dated as of May 14, 2013. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court (the "Settlement Notice") was mailed to all reasonably identified Persons who purchased or acquired Computer Sciences Corporation common stock between August 5, 2008 and December 27, 2011, inclusive, and who were allegedly damaged thereby; and that a summary notice of the hearing (the "Summary Settlement Notice"), substantially in the form approved by the Court, was published in *The Wall Street Journal* and transmitted over *PR Newswire*; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and litigation expenses requested;

NOW, THEREFORE, IT IS HEREBY ORDERED, this 20th day of September, 2013 that:

1. The Court has jurisdiction over the subject matter of this Action and over all Parties to the Action, including all Settlement Class Members and the Claims Administrator.

2. Notice of Class Counsel's application for attorneys' fees and payment of litigation expenses was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the application for attorneys' fees and expenses met the requirements of Rules 23 and 54 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), due process, and constituted the best notice practicable under the circumstances and due and sufficient notice to all persons and entities entitled thereto.

3. Class Counsel is hereby awarded attorneys' fees in the amount of \$19,012,500, plus interest at the same rate earned by the Settlement Fund, and payment of litigation expenses in the amount of \$3,059,815, plus interest at the same rate earned by the Settlement Fund, which sums the Court finds to be fair and reasonable. The Court notes that Plaintiff's counsel's air travel was only at coach rates.

4. The award of attorneys' fees and litigation expenses may be paid to Class Counsel from the Settlement Fund subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

5. In making this award of attorneys' fees and payment of litigation expenses to be paid from the Settlement Fund, the Court has analyzed the factors considered within the Fourth Circuit and found that:

(a) Through the efforts of Class Counsel, the Settlement has created a fund of \$97,500,000 in cash that returns a significant percentage of the estimated maximum alleged

damages and that numerous Settlement Class Members, who submit eligible Proofs of Claim, will benefit from;

(b) The Action involves complex and unique factual and legal issues, and, in the absence of settlement, would involve further lengthy proceedings with uncertain resolution if the case were to proceed to trial;

(c) Plaintiff's counsel have devoted more than 34,457 hours to the Action, with a lodestar value of \$16,031,271, to achieve the Settlement;

(d) The requested fee would result in a multiplier of 1.185.

(e) Plaintiff's counsel conducted the Action and achieved the Settlement with skillful and diligent advocacy;

(f) Labaton Sucharow LLP and Patton Boggs LLP pursued the Action on a contingent basis, having received no compensation during the Action, and any fee award has been contingent on the result achieved;

(g) The Action has been litigated efficiently under a Court-ordered schedule;

(h) The amount of attorneys' fees awarded are fair and reasonable and comparable to fee awards approved in cases with similar recoveries;

(i) Class Counsel has experience representing the Class Representative, Ontario Teachers' Pension Plan Board, for nearly a decade;

(j) The requested attorneys' fees and litigation expenses have been reviewed and approved as fair and reasonable by Class Representative, a sophisticated institutional investor that was directly involved in the prosecution and resolution of the Action and who has a substantial interest in insuring that any fees paid to Class Counsel are duly earned and not excessive;

(k) Notice was disseminated to putative Settlement Class Members stating that Class Counsel would seek an award of attorneys' fees in an amount not to exceed 19.5% of the Settlement Fund, and payment of litigation expenses incurred in connection with the prosecution of the Action in an amount not to exceed \$3,350,000, plus interest, and no Settlement Class Member has filed an objection to the fees and expenses requested by Class Counsel;

6. In accordance with 15 U.S.C. §78u-4(a)(4) of the PSLRA, a court may approve an "award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of a class." Pursuant to 15 U.S.C. §78u-4(a)(4), the Court hereby awards Class Representative reimbursement of its reasonable costs for the time devoted to the matter (\$28,881) and expenses (\$32,024), which included air travel only at coach rates, directly related to its representation of the Settlement Class in the total amount of \$60,905.

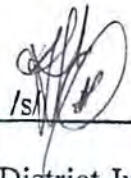
7. Any appeal or any challenge affecting this Court's approval of any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment entered with respect to the Settlement.

8. Exclusive jurisdiction is hereby retained over the subject matter of this Action and over all Parties to the Action, including the attorneys' fee award, its payment, and the administration and distribution of the Settlement proceeds to Settlement Class Members.

9. In the event that the Settlement is terminated or does not become Final or the Effective Date does not occur in accordance with the terms of the Stipulation, this order shall be rendered null and void to the extent provided by the Stipulation and shall be vacated in accordance with the Stipulation

Dated: September 20, 2013

T.S. Ellis, III, U.S.D.J.



T. S. Ellis, III
United States District Judge

TAB 7

**UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS**

	X	
	:	
IN RE CVS CORPORATION SECURITIES	:	C.A. No. 01-11464 (JLT)
LITIGATION	:	
	:	
	X	

ORDER AND FINAL JUDGMENT

This matter came before the Court for hearing pursuant to an Order dated June 8, 2005 (the “Preliminary Approval Order”), on the application of the parties for approval of the settlement provided for in the Stipulation and Agreement of Compromise, Settlement and Release of Securities Action dated June 6, 2005 (the “Securities Stipulation”); and

Due and adequate notice having been given to members of the Class (as defined below), as required in the Preliminary Approval Order, and following such notice, a hearing having been held before this Court on September 7, 2005 (the “Settlement Hearing”) to determine the matters contemplated herein; and

The Court having considered all papers and filings had herein and otherwise being fully informed of the premises and good cause appearing therefore; and

All capitalized terms herein having the same meanings defined in the Securities Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Court has jurisdiction over the subject matter of the Securities Action, Lead Plaintiff, all members of the Class and the Defendants.

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4. The Notice of the Proposed Settlement of Class Action, Motion For Attorneys' Fees, and Settlement Fairness Hearing, which was previously approved by the Court, was given to all members of the Class who could be identified with reasonable effort. The Court finds that the form of notice specified in the Court's Preliminary Approval Order has been given. The form and method of notice as so provided constituted the best notice practicable under the circumstances, satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(7) as amended, and due process, and constituted due and sufficient notice to all persons and entities entitled thereto.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby approves the settlement set forth in the Securities Stipulation (the "Settlement") and finds that the Settlement is, in all respects, fair, reasonable and adequate to members of the Class. The parties are authorized and directed to consummate the Settlement in accordance with the terms and provisions of the Securities Stipulation.

6. Except as to any individual claim of those persons who have validly and timely requested exclusion from the Class, the Court hereby dismisses the Securities Action with prejudice and without costs (except as otherwise provided in the Securities Stipulation) as to any and all Settled Claims, including Unknown Claims, that were or could have been asserted in the Securities Action by or on behalf of Lead Plaintiff and the Class Members.

7. All Class Members and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting

any and all claims, whether known or unknown (including Unknown Claims), and whether arising under federal, state, or any other law, against the Released Parties, which have been, or could have been, asserted in the Securities Action or in any court or forum, relating to or arising from the acts, facts, transactions and circumstances that were alleged in the Complaint and which relate to or arise from the purchase or sale of CVS common stock during the Class Period (the “Settled Claims”). The “Released Parties” are any of the Defendants, and any of the families, heirs, executors, trustees, personal representatives, estates or administrators, attorneys, counselors, insurers, financial or investment advisors of any such Defendant who is a natural person, and the affiliates, partners, subsidiaries, predecessors, successors or assigns, past or present officers, directors, associates, controlling persons, representatives, employees, attorneys, counselors, insurers, financial or investment advisors, dealer managers, consultants, accountants, investment bankers, commercial bankers, engineers, advisors or agents of CVS, all in their capacities as such. The Settled Claims are hereby compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

“Settled Claims” do not include any claims against the Released Parties arising under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.* (“ERISA”) that are the subject of another class action pending in the United States District Court, District of Massachusetts, Fescina v. CVS Corp., et al., Civil Action No. 04-12309-JLT, other than claims that the price of CVS common stock purchased on the open market during the Class Period was artificially inflated as alleged in the Complaint.

10. This Order and Final Judgment, the Securities Stipulation and its exhibits, the terms and provisions thereof, and any of the negotiations or proceedings connected with them, and any of the documents or statements referred to therein shall not be:

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litigation, or the deficiency of any defense that has been or could have been asserted in the Securities Action or in any litigation, or of any liability, negligence, fault, or wrongdoing on the part of any of the Defendants or other Released Parties;

(b) offered or received against any of the Defendants or other Released Parties as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Defendant or Released Party;

(c) offered or received against any of the Defendants or other Released Parties as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Defendants or Released Parties, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Securities Stipulation; provided, however, that the Defendants and the Released Parties may refer to it to effectuate the liability protection granted them hereunder;

(d) construed against the Defendants or other Released Parties as an admission or concession that the consideration to be given hereunder represents the amount which could or would have been recovered after trial in the Securities Action; or

(e) construed as or received in evidence as an admission, concession or presumption against plaintiffs or any of the Class Members that any of their claims are without merit, or that any defenses asserted by the Defendants have any merit, or that damages recoverable under the Complaint would not have exceeded the Settlement Fund.

11. The Plan of Allocation is approved as fair and reasonable, and Lead Plaintiff's Co-Lead Counsel and the Claims Administrator are directed to administer the Settlement in accordance with its terms and provisions.

12. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

13. Plaintiffs' Counsel are hereby awarded 25% of the Settlement Fund in attorneys' fees, which sum the Court finds to be fair and reasonable, and \$ 2,472,092.30 in reimbursement of expenses, which amounts shall be paid to Lead Plaintiff's Co-Lead Counsel from the Settlement Fund with interest from the date such Settlement Fund was funded to the date of payment at the same net rate that the Settlement Fund earns. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in the Securities Action in a fashion which, in the opinion of Lead Plaintiff's Co-Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Securities Action. Attorneys' fees and expenses awarded by the court in the Derivative Action to derivative plaintiff's counsel in the amount up to \$750,000 shall be payable from the award to Lead Plaintiff's Co-Lead Counsel in the Securities Action.

14. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) the Settlement has created a fund of \$110 million in cash (which is already on deposit), plus interest thereon, and that numerous Class Members who submit

acceptable Proofs of Claim will benefit from the Settlement created by Lead Plaintiff's Co-Lead Counsel;

(b) Over 320,000 copies of the Settlement Notice were disseminated to putative Class Members indicating that Plaintiffs' Counsel were moving for attorneys' fees from the Settlement Fund in an amount of up to twenty-five percent (25%) of the Settlement Fund and for reimbursement of their expenses in the approximate amount of \$2,700,000 and two (2) objections were filed against the terms of the proposed Settlement or the ceiling on the fees and expenses requested by Plaintiffs' Counsel contained in the Notice;

(c) Lead Plaintiff's Co-Lead Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(d) The Securities Action involves complex factual and legal issues and was actively prosecuted over almost four years and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(e) Had Lead Plaintiff's Co-Lead Counsel not achieved the Settlement there would remain a significant risk that Plaintiffs and the Class may have recovered less or nothing from the Defendants; and

(f) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement Fund are consistent with awards in similar cases.

15. Without affecting the finality of this Judgment in any way, the Court hereby retains jurisdiction over (a) implementation of the Settlement and any award or distribution from the Settlement Fund; (b) disposition of the Settlement Fund; (c) any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Class; and (d) over the parties and Class Members for all matters relating to this Securities Action, including the administration, interpretation, effectuation or enforcement of the Securities Stipulation and this Order and Final Judgment.

16. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Securities Stipulation.

17. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54 (b) of the Federal Rules of Civil Procedure.

SO ORDERED this 27th day of September, 2005.



U.S.D.J.

Exhibit 1

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MSGF228

CVS SECURITIES LITIGATION TIMELY EXCLUSION
CVS SECURITIES LITIGATION REPS

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<u>Nme IdNo</u>	<u>Name/Address</u>	
2046866	LINDA L AALTO TTEE MARY KOHR-AALTO REV LIV TRUST FBO MARY KOHR-AALTO 4/29/99 7512 SPRINGRIDGE RD BAINBRIDGE ISLAND, WA 98110-3644	Tax ID: 999999999 Account Number:
12602	MEGAN ACHESON 5312 RUE ST DENIS MONTREAL QC H2J 2M3 CA	Tax ID: 999999999 Account Number:
12598	CHARLES K ADAMS 500 N HILLCREST FORT BRANCH, IN 47648	Tax ID: 999999999 Account Number:
12579	SHARON AFTON 10771 TALL PINE LANE ALLENDALE, MI 49401	Tax ID: 999999999 Account Number:
12567	MICHAEL D ALLEN 23872 CALLE HOGAR MISSION VIEJO, CA 92691	Tax ID: 999999999 Account Number:
12584	LUIS A ANDRADE P.O. BOX 17 07 8738 QUITO ECUADOR EC	Tax ID: 999999999 Account Number:
12559	SEBASTIAN ARENA MARA ARENA EXECUTOR 125 GREENWOOD ROAD PITTSBURGH, PA 15238-2017	Tax ID: 999999999 Account Number:
2001690	CHARLOTTE HOBBS BARNES 6150 DEANNA DR SYKESVILLE, MD 21784-8653	Tax ID: 999999999 Account Number:

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MSGF228CVS SECURITIES LITIGATION TIMELY EXCLUSION
CVS SECURITIES LITIGATION REPSPage 2 of 24
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<u>Nme IdNo</u>	<u>Name/Address</u>	
11904	JAMES F BENNETT 1035 JANET AVE YPSILANTI, MI 48198	Tax ID: 999999999 Account Number:
11915	H LAMAR BIFFLE AND CAROL BIFFLE 60 STOKES DRIVE STOCKBRIDGE, GA 30281	Tax ID: 999999999 Account Number:
12604	JENNY LOU BLACKWELL 7915 JACKSTONE HOUSTON, TX 77049	Tax ID: 999999999 Account Number:
11935	MICHAEL K BLOOM C/O CVS PHARMACY ONE CVS DRIVE PO BOX E WOONSOCKET, RI 02895	Tax ID: 999999999 Account Number:
2156	CHRISTOPHER A BOS 713 PEACH TREE LN MILFORD, MI 48381	Tax ID: 999999999 Account Number:
11921	CAROL BOSARGE 4008 NW 23 CIRCLE GAINESVILLE, FL 32605	Tax ID: 999999999 Account Number:
11906	BARBARA BOWMAN 6645 S APACHE DR LITTLETON, CO 80120	Tax ID: 999999999 Account Number:
11925	EDMUND C BRAAK 2853 DEVEREAUX WAY SALT LAKE CITY, UT 84109	Tax ID: 999999999 Account Number:
12550	KERRIE BRADY P.O. BOX 671 NEW MILFORD, CT 06776	Tax ID: 999999999 Account Number:

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CVS SECURITIES LITIGATION REPSPage 3 of 24
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<u>Nme IdNo</u>	<u>Name/Address</u>	
12641	WILLIAM L BROWN PO BOX 75 13384 TUNICA TRACE WEYANOKE, LA 70787	Tax ID: 999999999 Account Number:
12603	JANE MCMULLEN BROWNE 1521 DAIRY RD CHARLOTTESVILLE, VA 22903-1303	Tax ID: 999999999 Account Number:
1009834	KEVIN DEAN BUSH & MICHELLE SUZETTE BUSH 1349 S RIDGE LAKE CIR LONGWOOD, FL 32750	Tax ID: 999999999 Account Number:
11940	VIRGINIA H BUTLER 2 HALLMARK DRIVE WALLINGFORD, CT 06492	Tax ID: 999999999 Account Number:
12544	ALLEN B BYERLEY & JANICE BYERLEY 4508 COUNTRY CLUB VIEW BAYTOWN, TX 77521	Tax ID: 999999999 Account Number:
2033549	ROBERT W BYERS & ELLEN D BYERS 1522 BISMARCK LANE BRENTWOOD, CA 94513-6903	Tax ID: 999999999 Account Number:
2067642	CARL J CALICO 3525 CORINNE AVE CHALMETTE, LA 70043-2601	Tax ID: 999999999 Account Number:
12592	LEE CARDWELL PO BOX 3073 CORDOVA, TN 38088-3073	Tax ID: 999999999 Account Number:

Count 208

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CVS SECURITIES LITIGATION REPSPage 4 of 24
19-May-05 2:38 PM

<u>Nme IdNo</u>	<u>Name/Address</u>	
2028737	DIONYSIA M CASTELINO TTEE DIONYSIA M CASTELINO REV LIV TRUST U/A/D 07/15/93 IDS BALANCED 7600 HOLIDAY DRIVE EAST INDIANAPOLIS, IN 46260-3615	Tax ID: 999999999 Account Number:
12583	MARJORIE H CATLIN TTEE 5300 W 96TH STREET #D5 INDIANAPOLIS, IN 46268	Tax ID: 999999999 Account Number:
12561	ALEXANDRA CHAFFERS 45 SOUNDVIEW DRIVE PORT WASHINGTON, NY 11050	Tax ID: 999999999 Account Number:
12591	WILLIAM B CHARTER & MARGUERITE F CHARTER 4026 MAXANNE DR NW KENNESAW, GA 30144	Tax ID: 999999999 Account Number:
11896	MR HARVEY T CHRISTENSEN & RUTH LARAIN CHRISTENSEN - TTEES CHRISTENSEN FAMILY TRUST U/A DTD 01/23/96 8020 EAST KEATS AVE #323 MESA, AZ 85208	Tax ID: 999999999 Account Number:
2035686	BILLIE B COKER CGM IRA CUSTODIAN 604 WEST QUITMAN IUKA, MS 38852-1431	Tax ID: 999999999 Account Number:
11536	KENNETH L COLVIN 9794 FERRY ROAD WAYNESVILLE, OH 48068	Tax ID: 999999999 Account Number:
12582	EILEEN H COMBS 8613 BOONE HALL CT KNOXVILLE, TN 37923	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11543	ELEANOR CONKLIN TTEES FBO GEORGE & ELEANOR CONKLIN TF 1353 CASSULOT COURT PALM HARBOR, FL 34684-2442	Tax ID: 999999999 Account Number:
11936	DIANNE M CONLAN 10 KAY STREET CUMBERLAND, RI 02864	Tax ID: 999999999 Account Number:
11545	HOWARD S CONNER 3440 WHITE MOUNTAIN COURT RENO, NV 89511	Tax ID: 999999999 Account Number:
1199	DEBRA CONSTANTINE 29 SMITH COURT WEST NEWTON, MA 02465-1411	Tax ID: 999999999 Account Number:
11548	HEATHER CORKERY & ROBERT CORKERY 35 ROYAL CREST DRIVE DOUGLAS, MA 01516	Tax ID: 999999999 Account Number:
11927	ELLEN-VIRGINIA D COYNE 10100 CYPRESS CORE DRIVE #101 FT MYERS, FL 33908	Tax ID: 999999999 Account Number:
12542	WINNIFRED S CROWDUS 604 ROYAL OAK INGRAM, TX 78025-3559	Tax ID: 999999999 Account Number:
12600	NIKKI CURENTON 10464 CLARION RIVER DR LAS VEGAS, NV 89135	Tax ID: 999999999 Account Number:
2007539	ALICE C DALLAM & DAVID L DALLAM 1625 CONOWINGO RD RISING SUN, MD 21911-1433	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
12578	DAN WESLEY INGLIS FAMILY TRUST SHIRLEY ANN INGLIS TTEE 4701 WOOD SPRINGS CT ARLINGTON, TX 76017	Tax ID: 999999999 Account Number:
1018364	NOELIA DAVILA 45 OHIO NEW BRAUNFELS, TX 78130-8105	Tax ID: 999999999 Account Number:
115	DOROTHY A DAVIS TOD HELEN R DICK SUBJECT TO STA TOD RULES 4636 POINT LOMA AVE SAN DIEGO, CA 92107	Tax ID: 999999999 Account Number:
11546	SUE N ROWEN EXECUTOR FBO ESTATE OF FRANCES E DAVIS 33075 WOODLEIGH ROAD PEPPER PIKE, OH 44124	Tax ID: 999999999 Account Number:
838	MARY C DAY 228 EAGLE BLUFF DR OAKWOOD, IL 61858-6210	Tax ID: 999999999 Account Number:
12531	MANUEL F DE LA TORRIENTE 1450 MADRUGA AVENUE # 311 CORAL GABLES, FL 33146	Tax ID: 999999999 Account Number:
12574	RICHARD DELGROSSO 336 EDMUNTON DRIVE L-12 N BABYLON, NY 15203	Tax ID: 999999999 Account Number:
12589	ROBERT DELGROSSO 23 BEACH RD PORT JEFFERSON, NY 11777	Tax ID: 999999999 Account Number:
11916	VICKI K DENT 25637 HANOVER STREET DEARBORN HTS, MI 48125	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11897	OPHELIA DENTON 3006 LUARA LN LITHIA SPRINGS, GA 30122	Tax ID: 999999999 Account Number:
12594	GEORGE DEO & JACQUELINE DEO 107 CHURCH RD MILFORD, NJ 08848	Tax ID: 999999999 Account Number:
12540	RUTH S DEWALD TTEE 9405 ASTON GARDENS CT #103 PARKLAND, FL 33076	Tax ID: 999999999 Account Number:
2061974	MARY DURANTE 340 WEST 57TH ST APT 21 NEW YORK, NY 10019-3706	Tax ID: 999999999 Account Number:
12596	DOROTHY DURRSCHMIDT 815 E GOLDENROD ST PHOENIX, AZ 85408	Tax ID: 999999999 Account Number:
12577	DOT S EASTERLING P.O. BOX 13052 JECKYLL ISLAND, GA 31527	Tax ID: 999999999 Account Number:
3838	ELIZABETH V ELLIOTT 4627A OXFORD ST LYNCHBURG, VA 24502-5103	Tax ID: 999999999 Account Number:
11922	RUTH A EMERY 1718 LAKECREST DRIVE PORT ARTHUR, TX 77642	Tax ID: 999999999 Account Number:
3885	LISA A EPPERSON 512 HICKORY STICK CR BLOOMINGTON, IN 47401-4691	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
12546	M J FAHLGREN KARRIKER TTEE RONALD W FAHLGREN RESIDUAL TRUST U/A DTD 11/3/94 PAS/RORE 46 MAGNOLIA LANE CROSSVILLE, TN 38555	Tax ID: 999999999 Account Number:
11911	MICHAEL J FEALY 1800 COUNTRY ROAD 310 BEEVILLE, TX 78102-8277	Tax ID: 999999999 Account Number:
11903	BARBARA FESTOFF 18 NO CAMBRIDGE AVE VENTNOR, NJ 08406	Tax ID: 999999999 Account Number:
1003817	MIGUEL A NAZARIO FRANCO & ANA BRICENO DE NAZARIO CALLE GARITA D-17 PASEO SAN JUAN URB. LOS PASEOS SAN JUAN, PR 00926	Tax ID: 999999999 Account Number:
4318	NOELIA R FREITAS 9940 NOB HILL CT #3 SUNRISE, FL 33351	Tax ID: 999999999 Account Number:
11910	BRUCE E GALBRAITH 206 LAKEWOOD DRIVE TULLAHOMA, TN 37388	Tax ID: 999999999 Account Number:
12532	MANUEL GANI 7 INDEPENDENCE BROCTON, MA 02467	Tax ID: 999999999 Account Number:
2068014	HELEN D GAUNT 1222 CHIPPENHAM DR BATON ROUGE, LA 70808-5623	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
4494	RAYMOND H GAUTHIER & PAULINE C GAUTHIER JTEN 221 PALM DRIVE LABELLE, FL 33935-9435	Tax ID: 999999999 Account Number:
12595	MARY M GEFELL 45 SEAFORD DRIVE ROCHESTER, NY 14617	Tax ID: 999999999 Account Number:
4549	CYNTHIA A GERWIG 856 COUNTY RD 801 ASHLAND, OH 44805-9575	Tax ID: 999999999 Account Number:
11905	AUDREY A GLICK 1408 KENDON DR ST LOUIS, MO 63131	Tax ID: 999999999 Account Number:
11946	WILLIS B GLOVER XX, NY 11747	Tax ID: 999999999 Account Number:
11537	RUSSELL GOLDBAUM 7807 ROCKFORD ROAD BOYNTON BEACH, FL 33437	Tax ID: 999999999 Account Number:
1010879	JACK GOLDIN & FLORENCE S GOLDIN PO BOX 2909 GULFPORT, MS 39505	Tax ID: 999999999 Account Number:
11923	SUSAN H GOODIS 408 ALPINE VILLAGE DRIVE MONROEVILLE, PA 15146	Tax ID: 999999999 Account Number:
1016768	LAURIE L GORMAN-VASQUEZ LAURIE GORMAN VASQUEZ TRUST 5435 PARKFORD CIRCLE GRANITE BAY, CA 95746	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11529	IRWIN GOTBAUM IRA DTD 10/18/00 2104 N RIVERSIDE DR POMPANO BEACH, FL 33062	Tax ID: 999999999 Account Number:
11924	JACK B GRUBB 823 HARMONY LN MANDEVILLE, LA 70471-8912	Tax ID: 999999999 Account Number:
12642	WALTER C GUSTAFON & MELBA E GUSTAFSON 3812 W 57TH ST EDINA, MN 55410	Tax ID: 999999999 Account Number:
12555	AUDREY HALL UNKNOWN UNKNOWN, NY 11111	Tax ID: 999999999 Account Number:
2069107	HELENA HAMMER 1419 SW BRIDLEWOOD DR DALLAS, OR 97338-2325	Tax ID: 999999999 Account Number:
12601	DAVID M HAMPTON AND/OR CATHERINE D HAMPTON 114 WEST N STREET BENICIA, CA 94510	Tax ID: 999999999 Account Number:
11920	WILLIAM A HARRIS & FRANCELLA S HARRIS 319 LUCK AVENUE ZANESVILLE, OH 43701-4217	Tax ID: 999999999 Account Number:
12575	HELEN LEE HAYES P.O. BOX 2506 BORREGO SPRINGS, CA 92004-2506	Tax ID: 999999999 Account Number:
5331	JANET S HEWGLEY 460 COUNTY RD 603 ATHENS, TN 37303	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11894	MITCHELL K HOBISH, PH D 350 LOCKABOUT LANE PO BOX 632 MANHATTAN, MT 59741	Tax ID: 999999999 Account Number:
12581	BARBARA G HOCHSTEDLER SHANNONDALE OF MARYVILLE 804 SHANNONDALE WAY # 322 MARYVILLE, TN 37803-5970	Tax ID: 999999999 Account Number:
11929	D PAULINE HOEL 1015 IBIS ROAD JACKSONVILLE, FL 32216	Tax ID: 999999999 Account Number:
2025084	WALTER HOFF 1431 GARMON FERRY ROAD ATLANTA, GA 30327-3839	Tax ID: 999999999 Account Number:
204	RONALD C HOPPING & LIBBY A HOPPING JT TEN 39 GILLANDER AVE AUBURN, ME 04210-4507	Tax ID: 999999999 Account Number:
11898	HOPE M HRYSENKO 2453 BRAZILIA DR #61 CLEARWATER, FL 33763	Tax ID: 999999999 Account Number:
5552	JOHANNA M HUBER & HERBERT J HUBER JT TEN 65 SUNBRIAR DR WEST SENECA, NY 14224-3418	Tax ID: 999999999 Account Number:
5556	LISA A HUBERT 50 CHESTNUT ST HELLERTOWN, PA 18055	Tax ID: 999999999 Account Number:
5557	E RAYMOND HUCK 1141 GOODMAN ST PITTSBURGH, PA 15218-1116	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
5584	JEANNENE H ALLEN 8750 HARBOR CIRCLE TERRELL, NC 28682-9743	Tax ID: 999999999 Account Number:
11534	HILARY JACOBSON 2848 TORREY PINES ROAD LA JOLLA, CA 92037	Tax ID: 999999999 Account Number:
12557	ELIZABETH M JAMESON 19 RIDGE LANE MILL VALLEY, CA 94941	Tax ID: 999999999 Account Number:
11530	BETTY M JENSEN TTEE FBO JENSEN FAMILY TRUST UA DTD 10/27/94 13844 N SUTHERLAND WASH WAY TUCSON, AZ 85737-4718	Tax ID: 999999999 Account Number:
11533	DONALD W JOHNSON & PATRICIA B JOHNSON 6873 AUCKLAND DRIVE AUSTIN, TX 78749	Tax ID: 999999999 Account Number:
2068151	BRIAN KEBIS 2508 PEARTREE LANE SPARKS, NV 89434	Tax ID: 999999999 Account Number:
2078573	BETTY KELLER IRA 6853 CAROLYNCREST DR DALLAS, TX 75214	Tax ID: 999999999 Account Number:
243	PIERRETTE KELLY 124 RIVERSIDE DR WRENTHAM, MA 02093	Tax ID: 999999999 Account Number:
11934	RAYMOND J KISSEL 5500 W ST JOSEPH ROAD EVANSVILLE, IN 47720	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
2047397	MICHAEL F KLICH 1754 N OAKWOOD RD OSHKOSH, WI 54904-8447	Tax ID: 999999999 Account Number:
11933	ELZIABETH A KOPPERUD 78 32ND AVE N FARGO, ND 58102	Tax ID: 999999999 Account Number:
12537	IRIS KRUG 576 AUGUSTA BLVD NAPLES, FL 34113	Tax ID: 999999999 Account Number:
2062549	CHARLOTTE KUKLA 241 ASHFORD AVE DOBBS FERRY, NY 10522-1908	Tax ID: 999999999 Account Number:
12572	ARTHUR KUNZ P.O.BOX 468 FRANKSTON VIC 3199 AUSTRALIA AU	Tax ID: 999999999 Account Number:
11939	DENNIS C KURTZ 3210 HILLSIDE DRIVE HIGHLAND VILLAGE, TX 75077	Tax ID: 999999999 Account Number:
11547	JOANNA LANE 18655 W BERNARDO DRIVE APT #379 SAN DIEGO, CA 92127-3019	Tax ID: 999999999 Account Number:
12538	DAVID A LATACKI 80 PLAZA DRIVE ROCHESTER, NY 14617	Tax ID: 999999999 Account Number:
12558	KATHRYN LATOUREETE 11 REYNOLDS ROAD WEBSTER, NY 14580	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11908	ALVIN D S LAU TTEE FBO ALVIN DA LAU REV LIVING TRUS DTD 11/18/92 45-316 LEHUULLA ST KANEEOHE, HI 96744-2323	Tax ID: 999999999 Account Number:
12566	WILLIAM S LEACH JR UNKNOWN UNKNOWN, NY 11111	Tax ID: 999999999 Account Number:
12552	WILLIAM R LEE JR & KENT W LEE 8676 MEMPHIS ARLINGTON ROAD MEMPHIS, TN 38133	Tax ID: 999999999 Account Number:
11531	BERNICE S LEITNER 11277 OLA AVENUE BOYNTON BEACH, FL 33437	Tax ID: 999999999 Account Number:
2038418	LAUREL LEE LEMARIE TTEE FBO SEP EST OF LAUREL L LEMARIE PO BOX 1031 RANCHO SANTA FE, CA 92067-1031	Tax ID: 999999999 Account Number:
11901	M KENT LEMARIE PO BOX 1031 RANCHO SANTA FE, CA 92067-1031	Tax ID: 999999999 Account Number:
12548	CECILE A LEMIEUX 9 CAMP STREET CUMBERLAND, RI 02684	Tax ID: 999999999 Account Number:
11943	LMWW CUSTODIAN FBO RONALD P LIVINGSTON SEP IRA 2804 TAMARACK TRAIL APOPKA, FL 32703-4938	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11892	MERCELENA V LLOYD 43 HARDING DRIVE SEARCY, AR 72143-5704	Tax ID: 999999999 Account Number:
1003908	BERTRAND LOY 2 SETTLEMENT WAY ACTON, MA 01720	Tax ID: 999999999 Account Number:
12560	CLIFFORD MASTERSON 4386 LAKE P.O. BOX 122 BRIDGMAN, MI 49106	Tax ID: 999999999 Account Number:
11941	ARLINGTON BLISS MC CRUMB TTEE THE MC CRUMB REVOCABLE TRUST UAD 8/8/91 22 BATTERY STREET # 800 SAN FRANCISCO, CA 09411	Tax ID: 999999999 Account Number:
7371	J L MCCLAIN 16040 HIGHWAY 80 MINDEN, LA 71055	Tax ID: 999999999 Account Number:
11918	VERDA MCMULLEN 20127 N HORSE TRAIL DRIVE SURPRISE, AZ 85374-4611	Tax ID: 999999999 Account Number:
11528	EDWARD D MILLS 2093 IMPERIAL CIRCLE NAPLES, FL 34110	Tax ID: 999999999 Account Number:
11930	ANTHONY J MONER 1510 IMPERIAL GOLF COURSE BLVD # 114 NAPLES, FL 34110	Tax ID: 999999999 Account Number:
11913	FRANCINE MOSKOVITZ 930 INEZ WAY SACRAMENTO, CA 95822	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
12536	WARREN J OLSON 704 S JACKSON STREET FAIRBURY, IL 61739	Tax ID: 999999999 Account Number:
2002870	MARY PANARO 3025 SE MORNINGSIDE BLVD PORT SAINT LUCIE, FL 34952-5905	Tax ID: 999999999 Account Number:
12543	MONIE C PARKER 194 W JOLIET ROAD VALPARASIO, IN 46385-5942	Tax ID: 999999999 Account Number:
12593	JOSEPH PATRICK 5471 VICKSBURG DR INDIANAPOLIS, IN 46254	Tax ID: 999999999 Account Number:
11544	LOUIS PELZEL JR DIANA PELZEL 123 TYLER TERRACE SAN ANGELO, TX 76905-8207	Tax ID: 999999999 Account Number:
8881	SHIRLEY M PRESCOTT 8941 ETIWANDA AVE NORTHRIDGE, CA 91325-2710	Tax ID: 999999999 Account Number:
12576	RUTH R QUINTANILLA 90 BIG BEAR PLACE NW ISSAQUAH, WA 98027	Tax ID: 999999999 Account Number:
12590	MUHAMMAD USMAN QURESHI & MUHAMMAD FARHAN QURESHI & ANIS FATIMA 8907 SHASTA SPRINGS DR HOUSTON, TX 77034	Tax ID: 999999999 Account Number:
12585	DAWN RACZHOWSKI 509 ANN ELANE FAIRLESS HILLS, PA 19030	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11895	ALFRED J RAYMOND & DOLORES RAYMOND 133 COLE ST SEEKONK, MA 02771	Tax ID: 999999999 Account Number:
11541	JOSEF M REESE 553 FRANKLIN WAY WEST CHESTER, PA 19380	Tax ID: 999999999 Account Number:
11539	NORA L RESCH 4325 AEGEAN DRIVE APT 124B TAMPA, FL 33611-2405	Tax ID: 999999999 Account Number:
11909	STEVEN RICHARDS 11392 SEMINOLE REDFORD, MI 48239	Tax ID: 999999999 Account Number:
9193	GENE A RICHMOND JR 3012 SANSOM CT MILTON, WV 25541-1033	Tax ID: 999999999 Account Number:
11945	EDNA E RIPMAN XX, NY 11747	Tax ID: 999999999 Account Number:
12535	ROCHARD ROBINSON 3927 DUNN STREET GORVES, TX 77619	Tax ID: 999999999 Account Number:
11899	SHEILA H ROGERS 13520 VICTORY BLVD #9 VAN NUYS, CA 91401	Tax ID: 999999999 Account Number:
12565	ANN M RUDOLPH 311 INVERNESS CLOSE WESTMINSTER, MD 21158	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
1025009	JAMES RYAN & ANGELA RYAN 1142 VIA BOLZANO SANTA BARBARA, CA 93111-1054	Tax ID: 999999999 Account Number:
12553	LAWRENCE W RYAN 1550 N MAIN STREET LOT 107 MANSFIELD, TX 76069	Tax ID: 999999999 Account Number:
2050491	HILARY R SCHERMER OR FBO MARILYN S TESSMER TRUST 169-F TREASURE WAY SAN ANTONIO, TX 78209-2107	Tax ID: 999999999 Account Number:
2052136	DOROTHY SCHLAGEL 950 70TH ST SE DE GRAFF, MN 56271-9066	Tax ID: 999999999 Account Number:
2049558	JON K SCHMUKE & JOANN E SCHMUKE JTWROS 861 KEIFER TRAILS DR BALLWIN, MO 63021-6079	Tax ID: 999999999 Account Number:
1027851	ALEXIS M SCHOENTHAL C/O A G EDWARDS & SONS INC ROLLOVER IRA ACCOUNT PAS/RITTENHOUSE 4225 ABBEYDALE DRIVE CHARLOTTE, NC 28205-4607	Tax ID: 999999999 Account Number:
11944	EVELYN SHILLING XX, NY 11747	Tax ID: 999999999 Account Number:
9990	TERRY A SHORT 9 WHIPPLE AVENUE WARWICK, RI 02889-4725	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
10027	EDWIN A SILVER & ELAINE B SILVER JT TEN 11003 LOMBARDY RD SILVER SPRING, MD 20901-1638	Tax ID: 999999999 Account Number:
11907	EUGENE M SINISI 4214 CROWNWOOD DRIVE SEABROOK, TX 77586-4108	Tax ID: 999999999 Account Number:
11938	ROGER D SKINNER 1020 COVINGTON ROAD LOS ALTOS, CA 94024-5003	Tax ID: 999999999 Account Number:
2018812	MURRAY J SMIDT 5518 LINCOLN RD MARTINSVILLE, IN 46151-9136	Tax ID: 999999999 Account Number:
2074825	EDWARD J SMITH & DOROTHY M SMITH 3421 CLEARWELL ST AMARILLO, TX 79109-4122	Tax ID: 999999999 Account Number:
1020816	WILLIAM A SMITH 1100 HEMLOCK BORGER, TX 79007-5716	Tax ID: 999999999 Account Number:
11926	J.M. SMYKLA P.O. BOX 516 CONWAY, NH 03818-0516	Tax ID: 999999999 Account Number:
12547	LEA SOLOMON 17518 HIDDEN FOREST CIRCLE SPRING, TX 77379-8926	Tax ID: 999999999 Account Number:
2071380	EDWARD L SOULE (DECEASED) ROMANO M SOULE EXECUTOR PO BOX 54099 REDONDO, WA 98054-0099	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
12534	LISA SPENCER 3037 MASTERS POINT DR CASTLE ROCK, CO 80104	Tax ID: 999999999 Account Number:
12545	KAREN STEIB 3903 DORAL DRIVE TAMPA, FL 33634	Tax ID: 999999999 Account Number:
11532	RICHARD J STORTI & KIA D STORTI 1 LACROIX DRIVE WEST WARWICK, RI 02893	Tax ID: 999999999 Account Number:
2017559	MALVERNE N SULLIVAN 585 LINDEN AVE ELMHURST, IL 60126-4028	Tax ID: 999999999 Account Number:
11542	JOAN C SUMMERHAYS 50 SMITH ROAD DENVER, NJ 07834	Tax ID: 999999999 Account Number:
12533	THERESA M TALBOTT RR4 BOX 4169 STROUDSBURG, PA 18360	Tax ID: 162420579 Account Number:
1000139	ROBERT A TAMPLIN 959 ABERDEEN CT CONCORD, NC 28027-6451	Tax ID: 999999999 Account Number:
11928	SHIRLEY TARTER 810 W TOBAY LODI, CA 95240	Tax ID: 999999999 Account Number:
11919	MARLON R TAYLOR 3741 E 48TH STREET TULSA, OK 74135	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11535	HARRY THOMSEN 3492 HILL CIRCLE COLORADO SPRINGS, CO 80904	Tax ID: 999999999 Account Number:
12597	JUNE TOST 1080 PINE DRIVE ENUMCLAW, WA 98022	Tax ID: 999999999 Account Number:
2077042	PAUL R TOTTEN A/C 87000760 LARGE CAP CORE 425 BEECH PARK DR GREENWOOD, IN 46142-4055	Tax ID: 999999999 Account Number:
11008	BETTY J TRICKLER 305 FIELDSTONE DR LA PORTE, IN 46350-6654	Tax ID: 999999999 Account Number:
12586	PAUL TUCKER 30 ELKTON COURT LAFAYETTE, IN 47905	Tax ID: 999999999 Account Number:
12599	JENNIE F TUMINO PO BOX 675 MILLBROOK, NY 12545	Tax ID: 999999999 Account Number:
11540	LOUISE B TYRER 549 LAKESHORE DRIVE #7 INCLINE VILLAGE, NV 89451	Tax ID: 999999999 Account Number:
1004689	JOHN E UHL 7 ANVIL DR CUMBERLAND, RI 02864	Tax ID: 999999999 Account Number:
2054641	CHESTER IVAN UTLEY (FINANCIAL COUNSELORS IRA) 3832 W 134TH PL HAWTHORNE, CA 90250-6106	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
11900	LOIS VANKERHOVEN R9252 CTY HWY J SCHOFIELD, WI 54476-9701	Tax ID: 999999999 Account Number:
2052604	BEVERLY VASSALLO 6967 PAMPAS WAY FAIR OAKS, CA 95628-3258	Tax ID: 999999999 Account Number:
12570	VERA M WACHOWSKI 9957 LIVE OAK COURT AFFTON, MO 63123	Tax ID: 999999999 Account Number:
12549	WASHMON FAMILY PARTNERSHIP LTD 2 ATTN: DOROTHY B WASHMON 2101 TREASRE HILLS BLVD SITE 527 HARLINGER, TX 78550	Tax ID: 999999999 Account Number:
12580	NANCY ELAINE WATKINS 246 KIDARE DR PEARLAND, TX 77581	Tax ID: 999999999 Account Number:
12541	WILLIAM H WEAKLEY & CLAIRE L WEAKLEY JTWROS 15618 OLDRIDGE DRIVE HOUSTON, TX 77084	Tax ID: 999999999 Account Number:
11538	JASON E WEBB 133 FORD DRIVE NORTH SYRACUSE, NY 13212-2107	Tax ID: 999999999 Account Number:
1030936	JOHN R WEBB & JACQUELYN H WEBB JTWROS P O BOX 364 FOUNTAIN CITY, IN 47341-0364	Tax ID: 999999999 Account Number:

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<u>Nme IdNo</u>	<u>Name/Address</u>	
12569	HIPPOLYTE WEINUM 1025 LINCOLN ROAD WEST HEMPSTEAD, NY 11552	Tax ID: 999999999 Account Number:
1010725	ANN RUDD WELTNER & DOUGLAS G WELTNER 7777 FERNVALE RD FAIRVIEW, TN 37062	Tax ID: 999999999 Account Number:
12571	ROBERT B WERDE 1034 SANDE STREET NEENAH, WI 54956	Tax ID: 999999999 Account Number:
12530	BERNITA B WHITE 4453 BLACHLEYVILLE RD WOOSTER, OH 44691	Tax ID: 999999999 Account Number:
2026161	DR. JOE T. WILLS, MD SMITH BARNEY PROTOTYPE PS PLAN INVESCO NAM FLEX ACCOUNT DR. JOE T. WILLS TTEE 1707 MATTOX CREEK DRIVE THOMSON, GA 30824-7647	Tax ID: 999999999 Account Number:
3334	FRANCES ANDREWS WINESETTE PO BOX 54 BETHEL, NC 27812-0054	Tax ID: 999999999 Account Number:
1030782	BILLY H WINTERS P O BOX 656 HAMPTON, GA 30228-0656	Tax ID: 999999999 Account Number:
12568	JAMES H WRIGHT & SHERRY L WRIGHT 14924 SEVEN LEAGUE ROAD TYLER, TX 75703	Tax ID: 999999999 Account Number:

TAB 8

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

FILED-CLERK
U.S. DISTRICT COURT
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TX EASTERN-MARSHALL
BY _____

IN RE FLEMING COMPANIES
SECURITIES LITIGATION

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MDL NO. 1530

This Document Relates To: All Actions

Judge Ward

FINAL JUDGMENT AND ORDER OF DISMISSAL

On this 29th day of November, 2005, a hearing (the "Settlement Hearing") having been held before this Court to determine: (a) whether these Actions satisfy the applicable prerequisites for class action treatment under Rule 23(a) of the Federal Rules of Civil Procedure; (b) whether the proposed Settlement of the Actions as set forth in the Stipulations Plaintiffs have entered into with the Fleming Defendants, Deloitte & Touche, and the Underwriter Defendants, respectively (the defined terms of which shall have the same meaning herein), is fair, reasonable and adequate, and in the best interests of the Settlement Class and should be approved by the Court; (c) whether this Final Judgment and Order of Dismissal ("Final Order") should be entered in the Actions; (d) whether and in what amount Plaintiffs' Class Counsel's application for attorneys' fees, reimbursement of expenses and costs incurred, and awards to Representative Plaintiffs should be approved by the Court; (e) whether the Plan of Allocation proposed by Representative Plaintiffs and Plaintiffs' Class Counsel should be approved by the Court; (f) whether the Actions should be dismissed on their merits with prejudice and without costs; and (g) whether the Representative Plaintiffs and each Fleming Settlement Class Member who has not timely and validly excluded themselves from the Settlement Class in accordance with the Preliminary Approval Order and Mailed Notice and

Summary Notice, on behalf of themselves and their respective heirs, executors, administrators, legal representatives, predecessors, successors, parent companies, subsidiaries, affiliates, transferees and assigns and any other Person claiming (now or in the future) through or on behalf of them ("Releasers"), shall be conclusively deemed to have and by operation of this Final Order shall have (i) fully, finally and forever released, relinquished, and discharged all Released Claims (as defined below) against the Released Parties and Released Entities, (ii) fully, finally, and forever released, relinquished, and discharged the Released Parties and Released Entities from all Released Claims arising out of or in connection with the institution, prosecution, or assertion of the Actions or the Released Claims, (iii) covenanted not to sue the Released Parties and Released Entities, or any of them, in any action or proceeding of any nature with respect to the Released Claims, and (iv) forever be enjoined and barred from asserting the Released Claims against the Released Parties and Released Entities, or any of them, in any action or proceeding of any nature regardless of whether any such Releaser ever seeks or obtains any distribution from the Settlement Amount; whether or not such Releaser has executed and delivered a Proof of Claim and Release; whether or not the claims of any such Releaser who becomes a Claimant have been allowed or approved in whole or in part by the Court and whether or not such Claimant becomes an Authorized Claimant; whether or not such Releaser has participated in the distribution of the Settlement Amount; whether or not such Releaser has filed an objection to the Settlement, to any rejection of his/her/its claim to participate in the Settlement Amount as provided in the Stipulation, to the proposed Plan of Allocation, or to any application by Plaintiffs' Class Counsel for an award of attorneys' fees and expenses and costs; and whether or not the claims of such Releaser has been approved or allowed or such objection has been overruled by the Court.

The Court, having read and considered all matters submitted to it at the Settlement Hearing and otherwise, and the Parties having applied for approval of the Settlement as set forth in the Stipulations, and due and adequate notice having been given to the Settlement Class, it is hereby ORDERED and ADJUDGED that:

1. This Court has jurisdiction over the subject matter of the Actions and over all Parties to the Actions, including all Settlement Class Members

2. This Court finds that Plaintiffs' Settlement Counsel had, and has, the authority to negotiate and propose a settlement to this Court and to enter into the Stipulations and Settlement on behalf of the Settlement Class Members (including without limitation the Representative Plaintiffs) and Plaintiffs' Class Counsel.

3. For purposes of settlement only, the parties designated to serve as Representative Plaintiffs in the class actions are Jackson Capital Management, LLC, Massachusetts State Carpenters Pension Fund, Massachusetts State Guaranteed Annuity Fund, Alaska Electrical Pension Fund, David Dickey, Joel Feliciano, and Terry Slater.

4. This Court approves the Settlement of the Actions on the terms and conditions provided for in the Stipulations, finds that the Settlement and Stipulations are, in all respects, fair, adequate, and reasonable for purposes of Rule 23 of the Federal Rules of Civil Procedure, that it confers substantial benefits upon the Settlement Class, and that it is in the best interests of the Settlement Class, and, therefore, directs that the Settlement be consummated in accordance with the terms and conditions of the Stipulations.

5. The proposed Settlement Class is finally certified, pursuant to the Stipulations and under Rule 23 of the Federal Rules of Civil Procedure, for settlement purposes only, as follows:

All Persons who purchased or otherwise acquired Securities of
Fleming at any time in the period commencing May 9, 2001 and

ending February 25, 2003 inclusive, including, without limitation, all Persons who purchased or otherwise acquired Securities in, pursuant to, or traceable to Fleming's March 2002 Offering and all Persons who purchased or otherwise acquired Securities in, pursuant to, or traceable to Fleming's June 2002 Offering. Excluded from the Fleming Settlement Class are those Persons who timely and validly request exclusion from the Settlement Class, to the extent that they are able to do so under Rule 23 of the Federal Rules of Civil Procedure, pursuant to the Mailed and Summary Notice. Also excluded from the Fleming Settlement Class are the Defendants (as defined in the Stipulations), their respective subsidiaries and affiliates, members of the immediate families of each of the Defendants and the legal representatives, heirs, successors, affiliates or assigns of each of the Defendants. However, in the event that any Underwriter Defendants or affiliates referenced in the preceding sentence beneficially owned or otherwise held Fleming Securities on behalf of third parties or any employee benefit plan that otherwise fall within the Class, such third parties and employee benefit plans shall not be excluded from the Class, irrespective of the identity of the entity or Person in whose name the Fleming Securities were beneficially owned or otherwise held.

Attached as Exhibit 1 to this Final Order is a schedule of all Persons who timely and validly excluded themselves from the Settlement Class

6. The Court dismisses on the merits and without costs and with prejudice all claims and Counts asserted or that might have been asserted in the Actions against the Released Parties and Released Entities, and unequivocally and unconditionally releases, settles and extinguishes (as set forth more fully in paragraph 11 below) each and every Released Claim as to the Released Parties and Released Entities of each and every Released Party/Released Entity, Representative Plaintiff, Settlement Class Member, and the other Releasers against each and all of the Released Parties and Released Entities.

7. "Released Entities" or "Released Parties" means Albert Abbood, Herbert M. Baum, Clint Bryant, Thomas G. Dahlen, E. Stephen Davis, Kenneth M. Duberstein, Archie R. Dykes, Michael L. Freeman, Carol B. Hallett, Robert S. Hamada, Mark Hansen, Richard Hawk,

Carlos M. Hernandez, Matt Hildreth, Edward Joullian, III, Robert Liska, William H. Marquard, Philip B. Murphy, Charles Myers, Scott Northcutt, Guy A. Osborn, Alice M. Peterson, Jerry Rebel, Neal J. Rider, Mark D. Shapiro, Nathan Sheldon, and James Thatcher, and their respective representatives, heirs, executors, personal representatives, administrators, transferees, officers, employees, agents, trustees, counsel, board members, representatives, insurers, and assigns (the "Officer and Director Parties"); the Post-Confirmation Trust, Core-Mark, Fleming, and the Fleming Related Parties (collectively with the Officer and Director Parties the "Fleming Released Persons"); Deloitte & Touche USA LLP, Deloitte & Touche LLP, Deloitte Tax LLP, Deloitte Financial Advisory Services LLP, Deloitte Consulting LLP (successor to Deloitte Consulting Holding LLC), Deloitte Consulting (Nevada) LLC, Deloitte Consulting L.P., Deloitte Consulting (US) LLC and Deloitte Consulting (Holding Sub) LLC, Deloitte Touche Tohmatsu, a Swiss Verein, and any and all Deloitte Touche Tohmatsu associate and member firms and their respective past and present parent companies, predecessors, subsidiaries, divisions, affiliates, associates (as defined in SEC Rule 12b-2 promulgated pursuant to the Exchange Act), successors and assigns, joint ventures, their respective present and former partners, principals, members, directors, officers, employees, stockholders, owners, agents, subrogees, insurers, co-insurers, reinsurers, servants and attorneys, and their respective representatives, heirs, executors, personal representatives, administrators, transferees and assigns (the "Deloitte & Touche Releasees"); Lehman Brothers Inc., Deutsche Bank Securities Inc., Morgan Stanley & Co Incorporated, Wachovia Capital Markets LLC, Comerica Securities, Inc., Fortis Investment Services LLC, and J.P. Morgan Securities, Inc., and all of their past and present successors and assigns, subsidiaries, divisions, predecessors, affiliated entities, joint ventures, their respective present and former partners, principals, members, directors, officers, employees, stockholders, owners, agents,

subrogees, insurers, co-insurers, reinsurers, servants and attorneys, and their respective representatives, heirs, executors, personal representatives, administrators, transferees and assigns (the “Underwriter Releasees”); and Greenwich Insurance Company, Zurich Specialties London Limited, Faraday Capital Limited for and on behalf of Syndicate 435 at Lloyd’s, London, and all other underwriters at Lloyd’s subscribing to Policy No. 509/QB414902, AIG Europe (UK) Limited as General Agents for New Hampshire Insurance Company, RLI Insurance Company, Twin City Fire Insurance Company, Hiscox Insurance Company, Ltd., St. Paul Travelers Syndicate Management Services, Ltd., Syndicate 2488 - ACE Global Markets (“AGM”), Starr Excess Liability Insurance Company, XL London Market Services on behalf of Lloyd’s Syndicates 861 and 1209, The Travelers Indemnity Company, successor in interest by merger to Gulf Insurance Company, and Lumbermens Mutual Casualty Company, and their past, present, and future employees, agents, attorneys, directors, officers, shareholders, owners, representatives, predecessors, successors, heirs, executors, administrators, affiliates, parents, subsidiaries, assigns, and reinsurers, both individually and collectively (the “Insurers”).

The terms “Released Entities” and “Released Parties” are intended to have the same meaning, and the use of either term reflects the inclusion of all those described in the definition immediately above.

8. “Released Claims” collectively means and includes any and all claims or causes of action, including, without limitation, “Unknown Claims” (as defined below), debts, suits, rights of action, dues, sums of money, accounts, bonds, bills, covenants, contracts, controversies, agreements, promises, preferences, fraudulent conveyances, fraudulent transfers, bankruptcy claims, judgments, variances, executions, obligations, demands, rights, liabilities, damages, losses, fees, and costs of any kind, nature and/or description whatsoever, matured or unmatured,

liquidated or unliquidated, accrued or unaccrued, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not asserted, threatened, alleged or litigated, at law, admiralty, equity, in bankruptcy, or otherwise, including, without limitation, claims for contribution or indemnification, indemnity, or for costs, expenses (including, without limitation, amounts paid in Settlement) and attorneys' fees (including, without limitation, costs, expenses and attorneys' fees incurred in connection with this Stipulation and the Settlement of the Actions), claims for negligence, gross negligence, breach of duty of care and/or breach of duty of loyalty, malpractice, misrepresentation, fraud, breach of fiduciary duty, or violations of any federal, state or local statutes, common law, or any other laws, rules or regulations, that now exist or heretofore existed, that have been or could have been asserted or alleged in the Actions, or any other forum against the Released Entities and Released Parties or any of them whether known or unknown, directly, indirectly, representatively, derivatively or in any other capacity, which arise out of, are based upon or relate to, or are in connection with (i) the claims asserted in the Actions; (ii) the purchase or other acquisition of Securities or the sale or other disposition of Securities of Fleming at any time in the period commencing May 9, 2001 and ending February 25, 2003 inclusive, including, without limitation, the purchase or other acquisition of Securities in, pursuant to, or traceable to Fleming's March 2002 Offering and the purchase or other acquisition of Securities in, pursuant to, or traceable to Fleming's June 2002 Offering; (iii) any of the facts, circumstances, claims, transactions, events, occurrences, acts, disclosures, statements, representations, misrepresentations, omissions or failures to act, or matters of any kind or nature whatsoever, related directly or indirectly to the subject matters referred to, set forth in, or the facts, causes of action, counts, or claims for relief which were, might have been, or could have been, asserted, alleged or litigated in the Actions; (iv) any and all services provided at any time

by the Deloitte & Touche Releasees, the Underwriter Releasees, or any of them, to or with respect to Fleming, Debtors, or any related Person, including, without limitation, their respective present or former affiliates, predecessors or successors, and their respective directors, officers, employees, partners, principals, stockholders and owners, irrespective of whom such services were claimed to have been performed for or on behalf of, to the extent such services relate to Fleming; (v) the Released Insurance Claims and/or (vii) this Settlement or the entry into it (but not including any claims arising out of or relating to the enforcement of the terms of the Settlement itself)

9 “Released Insurance Claims” means any and all claims, Unknown Claims, potential claims, rights, damages, debts, liabilities, accounts, attorneys’ fees, reckonings, obligations, costs, expenses, liens, actions and causes of action of every kind and nature whatsoever, based on, arising out of, or in any way related to: (i) the Actions; (ii) any fact, circumstance, or situation underlying or alleged in the Actions; (iii) any claims for coverage arising from the Actions or any fact, circumstance, or situation underlying or alleged in the Actions or related thereto; and (iv) any claims for misrepresentations, fraud, indemnity, contribution, breach of contract, breach of duty, negligence, “bad faith,” violation of statute or regulation, including, without limitation, any claim arising under the Trade Practices and Consumer Protection provisions of the Texas Business and Commerce Code or the Texas Insurance Code; unfair claims handling, or damages of any kind whatsoever based on or arising out of or in any way related to the Actions, any fact, circumstance, or situation underlying or alleged in the Actions, or any claims for coverage arising from the Actions or any fact, circumstance, or situation underlying or alleged in the Actions.

10. "Unknown Claims" means any Released Claim that any Representative Plaintiff, Settlement Class Member, or other Releasor does not know or suspect to exist in his, her or its favor at the time of the release of the Released Entities or Released Parties that if known by him, her or it, might have affected his, her or its Settlement with and release of the Released Entities or Released Parties, or might have affected his, her or its decision not to object to this Settlement or not to exclude himself, herself or itself from the Settlement Class. With respect to any and all Released Claims, the Representative Plaintiffs, Settlement Class Members, and other Releasors agree that, upon the Effective Date, they shall have expressly waived and by operation of the Final Order shall have waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, including but not limited to the State of California, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

The Representative Plaintiffs, Settlement Class Members, and other Releasors agree that they may hereafter 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 the Released Claims, but shall be deemed to have and by operation of the Final Order shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist, or heretofore have existed, based upon any fact, theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery

or existence of different or additional facts. The Representative Plaintiffs, Settlement Class Members, and other Releasors agree and acknowledge, and by operation of the Final Order shall have acknowledged, that the foregoing waiver and the inclusion of Unknown Claims in the definition of Released Claims was separately bargained for and was a key element of the Settlement of which this Release is a part.

11. Upon the Effective Date, the Releasors shall be conclusively deemed to have and by operation of this Final Order shall have: (i) fully, finally and forever released, relinquished, and discharged all Released Claims against the Released Parties and Released Entities; (ii) fully, finally, and forever released, relinquished, and discharged the Released Parties and Released Entities from all Released Claims arising out of or in connection with the institution, prosecution, or assertion of the Actions or the Released Claims; (iii) covenanted not to sue the Released Parties and Released Entities, or any of them, in any action or proceeding of any nature with respect to the Released Claims and (iv) forever be enjoined and barred from asserting the Released Claims against the Released Parties and Released Entities, or any of them, in any action or proceeding of any nature regardless of whether any such Releasor ever seeks or obtains any distribution from the Settlement Amount; whether or not such Releasor has executed and delivered a Proof of Claim and Release; whether or not any claims of such Releasor who becomes a Claimant have been allowed or approved in whole or in part by the Court and whether or not such Claimant becomes an Authorized Claimant; whether or not such Releasor has participated in the distribution of the Settlement Amount; whether or not such Releasor has filed an objection to the Settlement, to any rejection of his/her/its claim to participate in the Settlement Amount, to the proposed Plan of Allocation, or to any application by Plaintiffs' Class Counsel for

an award of attorneys' fees and expenses and costs; and whether or not the claims of such Releasor have been approved or allowed or such objection has been overruled by the Court.

12. Distributions to Authorized Claimants shall be deemed final and conclusive against all Fleming Settlement Class Members. All Fleming Settlement Class Members whose claims are not approved by the Court shall be barred from participating in distributions from the Settlement Amount, but shall in all respects be subject to and bound by the Stipulations and the Settlement and this Final Order, including, without limitation, the releases provided for in paragraph 11 of this Final Order.

13. If any Claimant whose claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required by paragraph 5 8 of the Stipulations, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's ground for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot be otherwise resolved, Plaintiffs' Class Counsel shall thereafter present the request for review to the Court. Claimants involved in such a dispute whose rejection is ultimately upheld by the Court shall be forever barred from receiving any payments pursuant to the Stipulations and the Settlement, but shall in all respects be subject to and bound by the Stipulations and the Settlement, the Proof of Claim and Release and this Final Order, including, without limitation, the releases provided for in paragraph 11 of this Final Order.

14. All claims, however denominated, which have been, or could have been, or could be asserted against the Released Parties and Released Entities, or any of them, by any Person, including without limitation, the Representative Plaintiffs and the Fleming Settlement Class and each Fleming Settlement Class Member and the other Releasors, who is, could be, or could have

been named or added as a defendant in the Actions and, to the extent legally permissible, by or on behalf of any other Person, which arise from, are based on, are in any way related to, or are in connection with the claims in or subject matter of the Actions and the Released Claims, whether arising under federal, state or local law, including those based in tort, contract, or under any statute or body of law, including, without limitation, claims for contribution, indemnification or reimbursement, are extinguished, discharged, satisfied, dismissed with prejudice and without costs, permanently barred and otherwise unenforceable, and the future filing of any such claims is permanently enjoined. Such order is not intended to, and will not, release or extinguish any claim, right or defense which the Released Parties and Released Entities, or any of them, may have with respect to claims that may be asserted by any Person who has timely and validly excluded themselves from the Settlement Class in the Action ("Opt-out Claims"); the Released Parties and Released Entities reserve their respective rights, claims and defenses with respect to any Opt-out Claims.

15. Pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(f)(7)(A), and other statutory or common law rights, (i) the Officer and Director Parties, the Deloitte & Touche Releasees, the Underwriter Releasees, and each of them, are finally discharged from all claims for contribution, indemnity, or other federal or state law causes of action arising pursuant to statute, common law or otherwise, brought by any Person that seek to recover damages from the Released Parties and Released Entities, or any of them, arising out of the Actions, the Settlement, the Stipulations, and/or the Released Claims and from all obligations to the Representative Plaintiffs, Fleming Settlement Class Members, the Fleming Settlement Class, and the other Releasers arising out of the Actions; (ii) all future claims against the Officer and Director Parties, the Deloitte & Touche Releasees, the Underwriter Releasees, and each of

them, for contribution, indemnity or other federal or state law causes of action arising pursuant to statute, common law or otherwise, that seek to recover damages arising out of the Actions, the Settlement, the Released Claims, and/ or the Stipulation by any Person are barred; (iii) Fleming, the Post-Confirmation Trust and Core-Mark, and each of them, other than with respect to the Carved Out Claims, are finally discharged from all claims for contribution, indemnity, or other federal or state law causes of action arising pursuant to statute, common law or otherwise, brought by any Person that seeks to recover damages from Fleming, the Post-Confirmation Trust, Core-Mark, and the Officer and Director Parties arising out of the Actions, the Settlement, the Released Claims, or this Stipulation, and from all obligations to the Representative Plaintiffs, Fleming Settlement Class Members and the Fleming Settlement Class arising out of the Actions; and (iv) other than with respect to the Carved Out Claims, all future claims against Fleming, the Post-Confirmation Trust and Core-Mark for contribution, indemnity or other federal or state law causes of action arising pursuant to statute, common law or otherwise, that seek to recover damages arising out of the Actions, the Settlement, or the Released Claims by any Person are barred

16 In accordance with Section 4(f)(7)(A) of the PSLRA, 15 U.S.C. § 78u-4(f)(7)(A), and other statutory or common law rights, the Released Parties and Released Entities, and each of them, are by virtue of the Settlement hereby fully, finally and forever released and discharged from all claims for contribution that have been or may hereafter be brought by any Person, whether arising under state, federal or common law, based upon, arising out of, relating to, or in connection with the Released Claims. Accordingly, to the fullest extent provided by the PSLRA, or other statutory or common law rights, the Court hereby permanently enjoins and bars all

claims for contribution against the Released Parties and Released Entities (the "Reform Act Bar Order")

17. In the event Representative Plaintiffs, the Fleming Settlement Class, or any Fleming Settlement Class Member or other Releasor sues(s) any Person for claims arising out of the acts and transactions alleged in the Actions ("New Defendant"), solely for the purposes of paragraphs 8, 19 and 20 of this Final Order each such New Defendant shall be deemed to be a Non-Settling Defendant. Additionally, in the event any New Defendant, Non-Settling Defendant, or any other Person sued by a New Defendant or a Non-Settling Defendant sues any of the Settling Defendants, for claims arising out of the acts and transactions alleged in the Actions, solely for the purposes of paragraphs 8, 17, and 18 of this Final Order, each such additional New Defendant shall be deemed to be a Non-Settling Defendant.

18. The Released Parties and Released Entities are by virtue of the Settlement hereby fully, finally and forever released and discharged from any liability to Representative Plaintiffs, the Settlement Class, and any Settlement Class Member or other Releasor under Chapter 33 of the Texas Civil Practice & Remedies Code, or similar statute that may otherwise be applicable.

19. The Released Parties and Released Entities are by virtue of the Settlement hereby fully, finally and forever released and discharged to the fullest extent allowed by law from and against any and all claims, however styled, whether for indemnification, contribution, or otherwise arising out of or relating to the acts and transactions that are the subject of the Actions and the Released Claims, whether arising under federal, state, or common law (the "Complete Bar Order").

20. To the extent (but only to the extent) not otherwise covered by the Reform Act Bar Order or the Complete Bar Order, Representative Plaintiffs, the Settlement Class, and all

Settlement Class Members or other Releasors shall reduce or credit against any judgment or settlement (up to the amount of such judgment or settlement) they may obtain from any Non-Settling Defendant an amount equal to the amount of any final, non-appealable judgment which any Non-Settling Defendant may obtain against any of the Released Parties or Released Entities arising out of or relating to the Released Claims of Representative Plaintiffs, the Settlement Class, or any Settlement Class Member or other Releasor. Representative Plaintiffs, the Settlement Class, and all Settlement Class Members or other Releasors shall not settle any claim against any Non-Settling Defendant without obtaining from such Non-Settling Defendant the release of any claim such Non-Settling Defendant may have against any of the Released Parties or Released Entities arising out of or relating to the Released Claims asserted by Representative Plaintiffs, the Settlement Class, or any Settlement Class Member or other Releasor against such Non-Settling Defendant provided that the Released Parties and Released Entities shall execute a release in favor of such Non-Settling Defendant.

21. The form, substance, and requirements of the notice given to the Settlement Class pursuant to the Preliminary Order, including the mailing, distribution, and publication of such notice, was the best notice practicable under the circumstances as well as valid, due, and sufficient notice to all persons entitled thereto, including all Settlement Class Members, and complies fully with the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States, the Private Securities Litigation Reform Act of 1995, and any other applicable law.

22. The Court awards Attorneys' Fees constituting 23.75 percent of the Settlement Funds to Plaintiffs' Class Counsel for services performed in the Actions, including interest earned thereon. The Court further awards expenses and costs in the aggregate amount of

\$2,358,257.86 from the Settlement Funds. The Court finds such awards to be fair and reasonable.

23. The Court authorizes payment of ongoing settlement administration expenses to be paid out of the Settlement Funds.

24. The Court awards to the Representative Plaintiffs reasonable costs and expenses (including lost wages) directly relating to the representation of the Class, to be paid from the Settlement Funds, as follows: Jackson Capital Management, LLC \$43,750; David Dickey \$7,200; Joel Feliciano \$37,500; and Terry Slater \$7,800.

25. Within ten (10) business days following entry of this Final Order, the amount specified in paragraph 22 should be paid out of the Settlement Funds to Plaintiffs' Settlement Counsel for allocation among Plaintiffs' Class Counsel. In the event that the Stipulations are terminated or canceled, otherwise fail to become effective for any reason, including, without limitation, in the event this Final Order or any order preliminarily approving this Settlement, finally approving this Settlement, or awarding attorneys' fees or expenses and costs is reversed, modified or vacated following any appeal or that the Effective Date does not occur as provided for in the Stipulations, then Plaintiffs' Class Counsel shall promptly (no later than 10 business days) remit to the respective Settlement Amounts (or, in the event that the Stipulations are terminated or canceled as provided therein, to the respective Released Parties or Released Entities according to the amounts of their initial contribution to the respective Settlement Amounts) any amount of attorneys' fees and expenses and costs that has been paid to Plaintiffs' Class Counsel (even if some or all of such amounts have already been disbursed to Plaintiffs' Class Counsel or otherwise), plus any interest actually paid or that would have accrued from the date of payment to the date of repayment to the respective Settlement Amounts (or, in the event

that the Stipulations are terminated or canceled as provided therein, to the respective Released Parties or Released Entities according to the amounts of their initial contribution to the respective Settlement Amounts) at the existing United States Treasury Bill Rate. If said amount is not returned within such ten (10) day period, then interest shall accrue thereon at the rate of five (5) percent per annum until the date that said amount is returned and upon application by any of the Released Parties or Released Entities, the Court shall order such return to be made within ten (10) days of the date of the order is entered.

26. Before any award described in paragraph 22 is paid, Plaintiffs' Class Counsel shall provide undertakings satisfactory to the Officer and Director Parties and the Insurers (such as by Letter of Credit from a bank or other financial institution acceptable to the Officer and Director Parties and the Insurers) to repay such fees to the Settlement Escrow Account if any order finally approving this Settlement, or awarding attorneys' fees or expenses and costs, is reversed or modified on appeal, or in the event that this Stipulation is terminated or canceled as provided herein, or that Effective Date does not occur as provided in the Stipulation.

27. This Court hereby approves the proposed Plan of Allocation, as set forth in Representative Plaintiffs' and Plaintiffs' Class Counsel's submission for approval of the Plan of Allocation.

28. Any proposed Plan of Allocation, including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, or any application for attorneys' fees and reimbursement of expenses and costs, is not a part of the Stipulation and the Settlement set forth therein. Further, the Plan of Allocation was drafted, created, and negotiated after the Released Parties and Released Entities agreed to the Settlement, and the Released Parties and Released Entities did not have any role or participation in drafting, creating, or negotiating the Plan of

Allocation. Any order or proceedings related to the proposed Plan of Allocation, or any application for attorneys' fees and reimbursement of expenses and costs, or any appeal from any order relating thereto or reversal or modification thereof, shall not modify, terminate, or cancel the Stipulations or the Settlement set forth therein, or affect or delay the finality of this Final Order.

29. Without affecting the finality of this Final Order in any way, this Court hereby retains continuing jurisdiction over: (a) implementation and enforcement of the terms of the Settlement set forth in the Stipulations; (b) distribution of the Settlement Amount, including interest earned thereon; (c) determination of any other applications for payments out of the Settlement Amount; and (d) all Parties hereto for the purpose of implementing and enforcing the Settlement set forth in the Stipulations in this case until the Effective Date has occurred and each and every act agreed to be performed by the Parties has been performed and for the purpose of enforcing the obligations of each of the Parties embodied in the Stipulations, including for the purpose of enforcing any injunction against bringing a Released Claim against any of the Released Parties or Released Entities. The Court shall maintain continuing jurisdiction over all Settlement Class Members for purposes of enforcing the terms of this Final Order.

30. Neither the Released Parties nor Released Entities nor their counsel shall have any responsibility for, interest in, or liability whatsoever to any Person, including, without limitation, to any Settlement Class Members, the Settlement Class, Claimants, Authorized Claimants, Representative Plaintiffs, Releasers, Plaintiffs' Settlement Counsel, or Plaintiffs' Class Counsel with respect to the Settlement Amount (except to the extent that they shall retain an interest in the respective Settlement Amounts as provided in paragraphs 6.2 and 7.6 of the Stipulations), any investment or distribution of the Settlement Amount, the proposed or actual Plan of

Allocation, the determination, administration, or calculation of claims, final awards and supervision and distribution of the Settlement Amount as set forth in Section 5 of the Stipulations, or any application for attorneys' fees and reimbursement of expenses and costs, the payment or withholding of Taxes and Tax Expenses, or any losses incurred in connection with any such matters; and any Person, including, without limitation, the Settlement Class Members, the Settlement Class, Claimants, Authorized Claimants, Representative Plaintiffs, Releasors, Plaintiffs' Settlement Counsel, and Plaintiffs' Class Counsel shall have no claims against the Released Parties or Released Entities or their respective counsel in connection therewith.

31. No Person shall have any claim against the Representative Plaintiffs, Plaintiffs' Class Counsel, or the Claims Administrator, based on distributions made substantially in accordance with the Settlement and this Stipulation, any Plan of Allocation, or further orders of the Court.

32. This Final Order is binding on all Representative Plaintiffs, Settlement Class Members, and Releasors, whether or not any of the Representative Plaintiffs, Settlement Class Members, or Releasors executes and delivers the Proof of Claim and Release; whether or not any of the Representative Plaintiffs, Settlement Class Members, or Releasors participates in the Settlement Amount; whether or not any of the Representative Plaintiffs, Settlement Class Members, or Releasors have filed an objection to the Settlement, to any rejection of their claim to participate in the Settlement Amount as provided in the Stipulation, to the proposed Plan of Allocation, or to any application by Plaintiffs' Class Counsel for an award of attorneys' fees and expenses and costs; and whether or not the claims of such Representative Plaintiffs, such Fleming Settlement Class Member, or such Releasor have been approved or allowed or such objection has been overruled by the Court.

33. Neither this Final Order, the Stipulations, nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulations or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of any Released Party or Released Entity; (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any Released Party or Released Entity in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal; (c) shall constitute an adjudication or finding on the merits as to the claims of any party hereto, and shall not be deemed to be, intended to be or construed as an admission of liability, in any way on the part of any party hereto, or any evidence of the truth of any fact alleged or the validity of any claims that have been or could be asserted in the Actions, all of whom expressly deny any liability for any and all claims of any nature whatsoever; nor shall anything herein contained constitute an acknowledgment of fact, allegation or claim that has been or could have been made, nor shall any third party derive any benefit whatsoever from the statements made within the Stipulations; nor (d) shall be construed against any Released Party or Released Entity as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial. Any Released Party or Released Entity may file the relevant Stipulation and/or this Final Order in any action that may be brought against it in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

34. The Court finds that the Parties, Plaintiffs' Class Counsel, Counsel for Fleming, the Post-Confirmation Trust, and Core-Mark, Deloitte & Touche's Counsel, and Counsel for the

Underwriters have complied in all respects with Federal Rule of Civil Procedure 11(b) in connection with the filing of all complaints, responsive pleadings, and dispositive motions in this case.

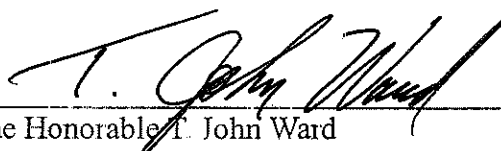
35. The Settling Parties shall bear their own costs and expenses, except as otherwise provided in the Stipulations or in this Final Order.

36. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulations.

37. Pursuant to Federal Rule of Civil Procedure 54, the Court has expressly determined that there is no just reason for any further delay in approving this Final Order and entering judgment dismissing all counts and claims against the Released Parties and Released Entities with prejudice and without costs.

38. Immediate entry of this Final Order by the Clerk of the Court is expressly directed pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED THIS 29th DAY OF November, 2005.


The Honorable T. John Ward
United States District Judge

TAB 9

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

IN RE FORCE PROTECTION, INC.
SECURITIES LITIGATION

Consolidated Civil
Action No. 2:08-cv-845-CWH

ORDER AND FINAL JUDGMENT

This matter came before the Court for hearing on January 25, 2011 (the “Settlement Hearing”), pursuant to the Order Preliminarily Approving Settlement and Providing for Notice dated October 5, 2010 (“Order”), on the application of the parties for approval of the Stipulation of Settlement dated September 27, 2010 (the “Stipulation”). Whereas the Court has considered all matters submitted to it at the Settlement Hearing and otherwise and the entire matter of the Settlement; it appears that a Notice of Pendency and Proposed Settlement of Class Action (“Notice”) substantially in the form approved by the Court was mailed to all Class Members (as defined below) as shown by the records of Force Protection, Inc.’s (“Force Protection” or the “Company”) transfer agent, at the respective address set forth in those records; a Summary Notice of the Settlement substantially in the form approved by the Court was published as directed by the Court in the Order; the Settling Parties have appeared by their attorneys of record; the attorneys for the Settling Parties have been heard in support of the Settlement; and an opportunity to be heard was given to all other persons desiring to be heard as provided in the Notice; IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Order and Final Judgment incorporates by reference the definitions in the Stipulation, and all capitalized terms used herein shall have the same meanings as set forth in the Stipulation.

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2. This Court has jurisdiction over the subject matter of the Litigation and over all parties to the Litigation, including all Class Members.

3. In accordance with Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, and for settlement purposes only, a class (the "Class") is hereby certified as follows: all persons or entities (and their beneficiaries) who purchased or otherwise acquired the publicly traded securities of Force Protection between January 18, 2007 and March 14, 2008, inclusive (the "Class Period"). Excluded from the Class are the Defendants; members of the immediate families of the Defendants; any entity in which any Defendant or family member has or had a controlling interest; the former and current officers and directors of Force Protection; or the legal affiliates, representatives, controlling persons, predecessors-in-interest, heirs, assigns, or any other successors-in-interest of any such excluded party. Also excluded from the Class are those persons listed on Exhibit 1 hereto.

4. With respect to the Class, this Court finds that, for settlement purposes only, the prerequisites under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of members of the Class (the "Class Members") is so numerous that joinder of all Class Members is impracticable; (b) there are questions of law and fact common to the Class Members which predominate over any questions affecting only individual Class Members; (c) the claims of Lead Plaintiffs are typical of the claims of the Class; (d) Plaintiffs' Co-Lead Counsel have represented, and will fairly and adequately represent, the interests of the Class Members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for settlement purposes only, the Court certifies Laborers' Annuity and Benefit System of Chicago, Gary

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Trautman, David J. Jager, Panteli Poulikakos, and Niki Poulikakos as class representatives for the Class. For settlement purposes only, Pomerantz Haudek Grossman & Gross LLP and Berman DeValerio are hereby appointed as Co-Lead Counsel for the Class.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement set forth in the Stipulation and finds that said Settlement is, in all respects, fair, reasonable, and adequate to the Class.

7. The Court finds that the Stipulation and the Settlement are fair, reasonable, and adequate as to each of the Settling Parties, and that the Stipulation and the Settlement are hereby finally approved in all respects.

8. Accordingly, the Court authorizes and directs implementation of all the terms and provisions of the Stipulation, as well as the terms and provisions hereof. Except as to any individual claim of those persons (identified in Exhibit 1 attached hereto) who have validly and timely requested exclusion from the Class, the Court hereby dismisses the Litigation with prejudice and without costs (except as otherwise provided in the Stipulation).

9. Upon the Effective Date hereof, Lead Plaintiffs, each and all of the Class Members (except those persons identified in Exhibit 1 attached hereto), and Plaintiffs' Counsel shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against any and all Released Persons, and shall forever be enjoined from prosecuting the Released Claims, regardless of whether such Class Member executes and delivers a Proof of Claim and Release.

10. Upon the Effective Date hereto, each of the Defendants shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiffs, each and all of the Class Members, and Plaintiffs'

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Counsel from all Settled Defendants' Claims, and shall forever be enjoined from prosecuting such claims.

11. Lead Plaintiffs, Plaintiffs' Counsel, each and all of the Class Members, the successors and assigns of any of them, and anyone claiming through or on behalf of any of them, are hereby permanently barred, enjoined, and restrained forever from instituting, commencing, prosecuting, or continuing to prosecute, either directly or in any other capacity, the Litigation or any other action or proceeding in any court of law or equity, arbitration tribunal, administrative forum of any kind, asserting against any of the Released Persons, and each of them, any of the Released Claims.

12. The Court hereby awards the payment of attorneys' fees to Plaintiffs' Counsel in the amount of 25% of the Settlement Fund, and the payment of \$381,376.76 to Plaintiffs' Counsel as reimbursement of expenses incurred in prosecuting this action. The Court finds that these amounts are fair and reasonable in light of the work performed by Plaintiffs' Counsel on behalf of the Class Members. The expenses are payable on the date of this Order. The attorney's fees shall be distributed as follows: fifty percent (50%) payable on the date of this Order; and fifty percent (50%) payable after all other funds in the Settlement Fund have been disbursed.

13. The Court hereby awards payments of \$15,000 to each of the Lead Plaintiffs as Compensatory Awards.

14. The Court hereby finds that the Notice provided to the Class was the best notice practicable under the circumstances, including the individual notice to all Class Members who could be identified through reasonable effort. The form and method of notifying the Class of the pendency of the action as a class action and of the terms and conditions of the proposed

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Settlement fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, § 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended, including by the Private Securities Litigation Reform Act of 1995, 28 U.S.C. § 1715, due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

15. Any appeal from this Court's order(s) approving the Plan of Allocation, the Fee and Expense Award, and/or any Compensatory Awards to Lead Plaintiffs shall in no way disturb or affect this Order and Final Judgment or its Finality and shall be considered separate from this Order and Final Judgment.

16. Neither the Stipulation nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as evidence of any presumption, concession, or admission by any of the Defendants or their respective Related Parties with respect to the truth of any allegations by any of the Plaintiffs or the validity of any Released Claim, or of any wrongdoing, liability, negligence, or fault of Defendants or their respective Related Parties, or (b) is or may be deemed to be or may be used as evidence of any presumption, concession or admission of any fault, misrepresentation or omission of any of the Defendants or their respective Related Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. Defendants and/or their respective Related Parties may file the Stipulation and/or this Order and Final Judgment from this action in any other action in which they are parties or that may be brought against them in order to support a defense, claim, or counterclaim based on principles of res judicata, collateral estoppel, release,

good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

17. Without affecting the Finality of this Order and Final Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; and (c) all parties hereto for the purpose of construing, enforcing, and administering the Stipulation.

18. Pursuant to 15 U.S.C. § 78u-4(c)(1), the Court finds that during the course of the Litigation, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

19. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, then this Order and Final Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

20. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

21. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

22. As used in this Order, the following terms have the following meanings:

(a) "Released Parties" means, with respect to each Defendant, the immediate family members, heirs, executors, administrators, successors, assigns, present and former

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employees, officers, directors, general partners, limited partners, attorneys, assigns, legal representatives, insurers, reinsurers, and agents of each of them, and any person or entity which is or was related to or affiliated with any Defendant or in which any Defendant has or had a controlling interest, and the present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, general partners, limited partners, employees, officers, directors, attorneys, assigns, legal representatives, insurers, reinsurers, and agents of each of them, as well as all current and former Force Protection directors and officers and each of their immediate family members, heirs, executors, administrators, successors, assigns, present and former employees, officers, directors, general partners, limited partners, attorneys, assigns, legal representatives, insurers, reinsurers, and agents of each of them.

(b) "Released Claims" means any and all rights, debts, demands, claims (including "Unknown Claims" as defined below) or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory, common law, foreign law, or any other law, rule, or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class and/or individual in nature, including both known claims and unknown claims that relate to the purchase or acquisition of the securities of Force Protection during the Class Period and that (a) Lead Plaintiffs or any member of the Class asserted, or could have asserted in this Litigation against any of the Released Persons; or (b) could have been asserted in this Litigation, or in any other action or forum by Lead Plaintiffs and/or the Class Members or any of them against any of the Released Persons which arise out of, are based upon, or are in any way related, directly or indirectly, to any of the facts, matters,

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allegations, transactions, events, disclosures, statements, acts or occurrences, representations or omissions involved, set forth, or referred to in the Complaint or that could have been alleged in the Complaint; **provided, however**, that the Released Claims do not include (i) any claims to enforce the terms of this Stipulation; (ii) any claims by Force Protection or any of its present or former directors, officers, or employees (or any other person or entity who is covered by the relevant insurance policies) against the current or former insurers of Force Protection; or (iii) any claims asserted in the following derivative litigations:

- Green v. Frank Kavanaugh, et al., Civ. A. No. 2:08-Cv-1904-CWH, U.S.D.C. D.S.C.;
- Galbraith v. Frank Kavanaugh, et al., Civ. A. No. 2:08-Cv-1907-CWH, U.S.D.C. D.S.C.;
- Cinotto v. Frank Kavanaugh, et al., Civ. A. No. 2:08-Cv-1998-CWH, U.S.D.C. D.S.C.;
- Luu v. Frank Kavanaugh, et al., Civ. A. No. 2:08-Cv-2019-CWH, U.S.D.C. D.S.C.;
- In re Force Protection Inc. Derivative Litigation, Master File No. 2:08-1907-CWH;
- Stephenson v. Frank Kavanaugh et al., Civ. A. No. 08-Cp-10-1735, Court of Common Pleas, Ninth Judicial Circuit, S.C.;
- Hughes v. Michael Moody, et al., Civ. A. No. 08-Cp-10-2444, Court of Common Pleas, Ninth Judicial Circuit, S.C.;
- Vitale v. Frank Kavanaugh, et al., Civ. A. No. 09-Cp-10-2216, Court of Common Pleas, Ninth Judicial Circuit, S.C.;
- Vitale v. Gordon McGilton, et al., Case No. A560860, District Court of Clark County, Nevada.

(c) "Released Persons" means any and all of the Defendants and each and all of their Related Parties.

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(d) "Settled Defendants' Claims" means all claims, demands, losses, rights, and causes of action of any nature whatsoever, that have been or could have been asserted in the Litigation or any forum by the Defendants against the Lead Plaintiffs, Class Members, or Plaintiffs' Counsel, which arise out of or relate in any way to the institution, prosecution, assertion, settlement, or resolution of the Litigation (except for claims to enforce the Settlement); **provided, however,** that "Settled Defendants' Claims" shall not include any claims to enforce the terms of this Stipulation.

e) "Unknown Claims" means any of the Released Claims which Lead Plaintiffs or any Class Member does not know or suspect to exist in such party's favor at the time of the release of the Released Persons which, if known by such party, might have affected such party's decisions concerning the Settlement. With respect to any and all Released Claims, upon the Effective Date, the Lead Plaintiffs and the Class Members shall expressly waive, and by operation of the Order and Final Judgment shall have expressly waived, the provisions, rights, and benefits of California Civil Code § 1542, which provides:


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.

The Class Members, by operation of the Order and Final Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code § 1542. The Class Members may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims, but the Class Members, upon the Effective Date, by

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operation of the Order and Final Judgment, shall have fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

AND IT IS SO ORDERED.


C. WESTON HOUCK
UNITED STATES DISTRICT JUDGE

March 8, 2011
Charleston, South Carolina

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Exhibit 1

Names of Claimants Requesting Exclusion

1. Suryanarayana Gorthy: Austin, Texas; zip code: 78754
2. Kiyang Yoon: Succasunna, New Jersey; zip code: 07876
3. Susan Steele: Mill Valley, California; zip code: 94941
4. Gordon C. Crowell: Lincolnton, North Carolina; zip code: 28092
5. Michael and Shannon Gaydeski: Richlands, North Carolina; zip code 28574

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TAB 10

BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP
BLAIR A. NICHOLAS (Bar No. 178428)
blairn@blbglaw.com
NIKI L. MENDOZA (Bar No. 214646)
nikim@blbglaw.com
BENJAMIN GALDSTON (Bar No. 211114)
beng@blbglaw.com
JON F. WORM (Bar No. 248260)
jonw@blbglaw.com
12481 High Bluff Drive, Suite 300
San Diego, CA 92130
Tel: (858) 793-0070
Fax: (858) 793-0323

BERMAN DeVALERIO
JOSEPH J. TABACCO, JR. (Bar No. 75484)
jtabacco@bermandevalerio.com
NICOLE LAVALLEE (Bar No. 165755)
nlavallee@bermandevalerio.com
KRISTIN J. MOODY (Bar No. 206326)
kmoody@bermandevalerio.com
JULIE J. BAI (Bar No. 227047)
jbai@bermandevalerio.com
One California Street, Suite 900
San Francisco, CA 94111
Tel: (415) 433-3200
Fax: (415) 433-6382

NOTE: CHANGES MADE BY THE COURT

*Attorneys for Co-Lead Plaintiffs
General Retirement System of the City of Detroit
and Massachusetts Laborers' Pension Fund*

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

IN RE INTERNATIONAL
RECTIFIER CORPORATION
SECURITIES LITIGATION

Case No. CV 07-02544-JFW (VBKx)

**ORDER AWARDING
ATTORNEYS' FEES AND
REIMBURSEMENT OF
LITIGATION EXPENSES**

Date: February 8, 2010

Time: 1:30 p.m.

Courtroom: 16

1 Lead Counsel's Application For Attorneys' Fees And Reimbursement Of
2 Litigation Expenses ("Fee And Expenses Application") duly came before the Court
3 for hearing on February 8, 2010. The Court has considered the Fee And Expense
4 Application and all supporting and other related materials, including any objections
5 and all matters presented at the February 8, 2010 hearing. Due and adequate notice
6 having been given to the Class as required by the Court's Order Preliminarily
7 Approving Settlement And Providing For Notice (Docket No. 293), and the Court
8 having considered all papers filed and proceedings had herein and otherwise being
9 fully informed in the proceedings and good cause appearing therefor;

10 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

11 1. This Order incorporates by reference the definitions in the Stipulation,
12 and all capitalized terms used, but not defined herein, shall have the same
13 meanings as in the Stipulation.

14 2. This Court has jurisdiction over the subject matter of the Consolidated
15 Action and over all parties to the Consolidated Action, including all members of
16 the Class.

17 3. The Fee And Expense Application filed in connection with the
18 Settlement is hereby GRANTED.

19 4. The objections to the Fee And Expenses Application are overruled.

20 5. The Court hereby awards attorneys' fees of \$22,329,915.24 (25% of
21 the \$90,000,000 Settlement Fund net of expenses), payable to Lead Counsel. The
22 Court also grants Lead Counsel's request for reimbursement of litigation expenses
23 in the amount of \$680,339.03.

24 6. Pursuant to Paragraph 17 of the Stipulation, the attorneys' fees and
25 expenses awarded herein shall be paid to Lead Counsel from the Settlement Fund
26 immediately upon entry of this Order, notwithstanding the existence of any timely
27 filed objections thereto, or potential for appeal therefrom, or collateral attack on
28 the Settlement or any part thereof.

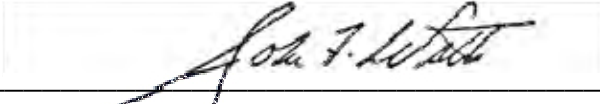
1 7. The Court finds that an award of attorneys' fees of 25% of the net
2 Settlement Fund is consistent with the Ninth Circuit's "benchmark," and is fair and
3 reasonable in light of the following factors, among others: the contingent nature of
4 the case; the quality of the legal services rendered; the benefits derived by the
5 Class; the institutional Lead Plaintiffs' support of the Fee And Expense
6 Application; and the reaction of the Class.

7 8. The Court further finds that the request for reimbursement of litigation
8 expenses is reasonable in light of Lead Counsel's prosecution of this action against
9 the Defendants on behalf of the Class.

10 9. There is no just reason for delay in the entry of this Order, and
11 immediate entry of this Order by the Clerk of the Court is expressly directed.

12 IT IS SO ORDERED.

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14 DATED: February 8, 2010

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17 THE HONORABLE JOHN F. WALTER
18 UNITED STATES DISTRICT COURT JUDGE
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TAB 11

FILED
LODGED
JUN 12 2012
AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

WARD KLUGMANN, Individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

AMERICAN CAPITAL LTD., MALON
WILKUS, JOHN R. ERICKSON,
IRA WAGNER, SAMUEL A. FLAX, and
RICHARD E. KONZMANN,

Defendants.

Civil Action No. 8:09-CV-00005-PJM

**FINAL JUDGMENT AND ORDER CERTIFYING SETTLEMENT CLASS,
APPROVING CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION,
AWARDING ATTORNEYS' FEES AND EXPENSES, APPROVING
REIMBURSEMENT OF PLAINTIFFS' EXPENSES AND DISMISSING ACTION
WITH PREJUDICE**

This matter came on for hearing on June 7, 2012, upon the motion of Plaintiffs for approval of the Settlement set forth in the Stipulation of Settlement, dated as of February 9, 2012 (the "Settlement Stipulation"). Due and adequate notice having been given to the Settlement Class as required by the Court's Preliminary Approval Order, dated February 22, 2012, and the Amendment to Order, dated March 14, 2012 (collectively, the "Preliminary Approval Order"), and the Court having considered the Settlement Stipulation, all papers filed and proceedings had herein, and all comments received regarding the proposed Settlement, the proposed Plan of Allocation, Plaintiffs' Counsel's

application for an award of attorneys' fees and reimbursement of litigation expenses and Plaintiffs' application for reimbursement of their time and expenses devoted to prosecution of the Litigation, and having reviewed the entire record in the Litigation and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Except as otherwise specifically set forth herein, the Court, for purposes of this Final Judgment and Order (the "Judgment"), adopts all defined terms set forth in the Settlement Stipulation and incorporates the terms of the Settlement Stipulation by reference herein.

2. The Court has jurisdiction over the subject matter of the above-captioned Litigation (the "Litigation"), Plaintiffs, the other Settlement Class Members, and Defendants.

3. The Court finds that the forms and methods for dissemination of the Notice of Pendency and Proposed Settlement of Class Action and Settlement Hearing, Proof of Claim and Release (the "Notice"), and publication of the Summary Notice of Proposed Settlement of Class Action and Settlement Hearing, as provided for in the Preliminary Approval Order, constituted the best notice practicable under the circumstances to apprise all Persons within the definition of the Settlement Class of the pendency of the Litigation and their rights in it, the terms of the proposed Settlement of the Litigation, of the proposed Plan of Allocation, of Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of expenses, Plaintiffs' application for reimbursement for their time and expenses, and afforded Settlement Class Members with an opportunity to present their

objections, if any, to the Settlement Stipulation, and fully met the requirements of Rule 23(c) and (e) of the Federal Rules of Civil Procedure, the requirements of the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(7), federal law, due process, the United States Constitution, and any other applicable law.

4. The Court finds that all Persons within the definition of the Settlement Class have been adequately provided with an opportunity to object to the proposed Settlement, the proposed Plan of Allocation, Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of litigation expenses and Plaintiffs' application for reimbursement of their time and expenses devoted to prosecution of the Litigation or to request exclusion from the Settlement Class by executing a written request for exclusion in conformance with the procedures and deadlines set forth in the Preliminary Approval Order, and that no objections to the proposed Settlement, Plaintiffs' counsel's application for an award of attorneys' fees and reimbursement of litigation expenses and Plaintiffs' application for reimbursement of their time and expenses devoted to prosecution of the Litigation have been submitted, and those Persons who requested exclusion from the Settlement Class are listed in Exhibit 1 to this Judgment and are hereby excluded from the Settlement Class.

5. With respect to the Settlement Class, this Court finds and concludes that, for purposes of the Settlement only, the prerequisites of Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law or fact common to the Settlement Class; (c) the claims of

Plaintiffs are typical of the claims of the Settlement Class they seeks to represent; (d) Plaintiffs will fairly and adequately represent the interests of the Settlement Class and retained counsel experienced in the prosecution of securities and class action claims; (e) the questions of law or fact common to the Settlement Class Members predominate over any questions affecting only individual Settlement Class Members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, and, for the purposes of this Settlement, and hereby:

(a) certifies a Settlement Class consisting of all Persons who purchased the publicly-traded common stock of ACAS between October 31, 2007 and November 7, 2008, inclusive. Excluded from the Settlement Class are Defendants, members of Defendants' immediate families, any entity in which any Defendant has a controlling interest, and the legal representatives, heirs, successors or assigns of any such excluded persons (all solely in their capacity as such and not otherwise). Also excluded from the Settlement Class are those Persons who have made Requests for Exclusion and who are listed on Exhibit 1 hereto;

(b) appoints and certifies Plaintiffs Charles E. Mendinhall, Ron Miller, Joseph J. Saville, Kent Nixon and Nina van Dyke as representatives of the Settlement Class; and

(c) finds, pursuant to Rules 23(g)(1) and (4) of the Federal Rules of Civil Procedure, that Court-appointed Co-Lead Counsel, Iazard Nobel LLP ("Iazard Nobel") and Brower Piven, A Professional Corporation ("Brower Piven") (collectively "Plaintiffs' Counsel"), have represented, and will continue to

represent the interests of the Settlement Class fairly and adequately, and therefore appoints IZARD NOBEL and BROWER PIVEN as counsel for the Settlement Class.

6. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement set forth in the Settlement Stipulation and finds that said Settlement is, in all respects, fair, reasonable, and adequate to, and is in the best interests of, Plaintiffs and each Settlement Class Member based on: (a) the Settlement resulting from arm's-length negotiations between able and experienced counsel representing the interests of Plaintiffs and the Settlement Class Members, and the Defendants, following development of the facts in the Litigation; (b) the amount of the recovery for Settlement Class Members being well within the range of fairness given the strengths and weaknesses of the claims and defenses thereto and the likely amount of damages that could be recovered absent the Settlement assuming complete success by Plaintiffs on the merits for themselves and all Settlement Class Members; (c) the risks of non-recovery and/or recovery of a lesser amount than is represented through the Settlement by continued litigation through all pre-trial, trial and appellate procedures; (d) the recommendation of experienced counsel for Plaintiffs and Defendants; and (e) after due and proper notice to Settlement Class Members of the Settlement and the terms of the Settlement Stipulation, the lack of any objection from any Settlement Class Member to the Settlement or any aspect thereof, and, accordingly, the Settlement embodied in the Settlement Stipulation is hereby approved in all respects and the Parties to the Settlement Stipulation are directed to perform and consummate the Settlement in accordance with its terms and provisions of the Settlement Stipulation and this Judgment.

7. The Released Claims are dismissed with prejudice as to the Settlement Class Members as against the Released Persons, with the Parties are to bear their own costs except as otherwise provided in the Settlement Stipulation or this Judgment, and by operation of this Judgment and under the terms of the Settlement Stipulation and the releases therein, it is intended to preclude, and shall preclude, Plaintiffs and all other Settlement Class Members from filing or pursuing the Released Claims.

8. Upon the Effective Date, each Settlement Class Member shall be deemed to have, and by operation of this Judgment to have, fully, finally, and forever released, relinquished and discharged the Released Claims against the Released Persons whether or not such Settlement Class Member executes and delivers the Proof of Claim and Release and whether or not the Claims Administrator and Plaintiffs' Counsel accept the Settlement Class Member's Proof of Claim and Release. Such release shall be binding upon each Settlement Class Member and upon any Person acting, or purporting to act, on behalf of Settlement Class Members (but solely in their capacity as a Person acting or purporting to act on behalf of a Settlement Class Member and not in the Person's individual capacity or otherwise).

9. Upon the Effective Date, each of the Defendants and Released Persons shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished and discharged all claims against each of the Settlement Class Members and all Plaintiffs' Counsel, arising out of, relating to, or in connection with the institution and/or prosecution of the Litigation, and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and

forever released, relinquished and discharged all claims against Defendants, Released Persons, and Defendants' Counsel arising out of, relating to, or in connection with the defense of the Litigation, in each case except as expressly provided in the Settlement Stipulation or to enforce the terms of the Settlement Stipulation.

10. All Settlement Class Members are permanently barred and enjoined from instituting, prosecuting, participating in, continuing, maintaining, or asserting, in any capacity, any action or proceeding that asserts any of the Released Claims.

11. Only those Settlement Class Members who submit complete, valid and, except as otherwise set forth in the Settlement Stipulation or allowed by this Court, timely, Proofs of Claim and Release forms shall be entitled to participate in the Settlement and receive a distribution from the Net Settlement Fund.

12. Neither the Settlement Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Stipulation or the Settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Persons, or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal.

13. Any Released Person may file the Settlement Stipulation and/or this Judgment from this Litigation in any other action that may be brought against them by any of the Settlement Class Members or any other Released Person in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release,

good faith settlement, judgment bar, or reduction or any theory of claim preclusion or issue preclusion or similar defense or counterclaim, and any Party to the Settlement Stipulation, counsel for any Party to the Settlement Stipulation, any Settlement Class Member, or counsel for any Settlement Class Members may file the Settlement Stipulation in any proceeding brought to enforce any of its terms or provisions.

14. Those Persons who have requested exclusion from the Settlement Class listed in Exhibit 1 hereto shall not be bound by this Judgment, the release of Released Claims against the Released Parties and/or the releases set forth herein, in the Settlement Stipulation and/or in the Proof of Claim and Release. Pursuant to Rule 23(c)(3) of the Federal Rule of Civil Procedure, all Persons who fall within the definition of Settlement Class Members who have not requested exclusion from the Settlement Class are thus Settlement Class Members and are bound by this Judgment and by the terms of the Settlement Stipulation

15. This Court hereby overrules the one objection received to the Plan of Allocation that complains that no proceeds of the Settlement will be distributed to Persons for Shares not purchased during the Class Period but only held during the Class Period on the grounds that, as a matter of law, there is no standing for claims in this litigation based on holding Shares during the Class Period in this Litigation, and approves the Plan of Allocation as set forth in the Notice as fair, reasonable, and equitable, and directs Plaintiffs' Counsel to proceed, through the Court-appointed Claims Administrator, The Garden City Group, Inc. ("GCG"), with the processing of Proof of Claim and Release forms and the administration of the Settlement pursuant to the terms of the Plan of

Allocation and, upon completion of the claims processing procedure, to present to this Court a proposed final distribution order for the distribution of the Net Settlement Fund to Settlement Class Members, as provided in the Settlement Stipulation and Plan of Allocation.

16. Plaintiffs' Counsel are hereby awarded thirty-three and one-third (33 1/3 %) percent of the Settlement Fund, plus \$219,689.48 in reimbursement of litigation expenses. The amounts shall be paid to Plaintiffs' Counsel from the Settlement Fund with interest from the date of entry of this Judgment to the date of payment at the same rate of interest that earned by the Settlement Fund. The Court finds the amount of attorneys' fees awarded herein is fair and reasonable based on: (a) the work performed and costs incurred by Plaintiffs' Counsel; (b) the complexity of the case; (c) the risks undertaken by Plaintiffs' Counsel and the contingent nature of their employment; (d) the quality of the work performed by Plaintiffs' Counsel in this Litigation and their standing and experience in prosecuting similar class action securities litigation; (e) awards to plaintiffs' counsel in other, similar litigation; (f) the benefits achieved for Settlement Class Members through the Settlement; and (g) the absence of any objection from any Settlement Class Members to either the application for an award of attorneys' fees or reimbursement of expenses to Plaintiffs' Counsel. The Court further finds that the expenses that Plaintiffs' Counsel's request reimbursed were reasonably and necessarily incurred by Plaintiffs' Counsel in the prosecution of the Litigation and in obtaining the results achieved for the Settlement Class.

17. Plaintiffs' Counsel may apply, from time to time, for any expenses incurred by them in connection with the administration of the Settlement and distribution of the Net Settlement Fund to Settlement Class Members

18. The Court finds that the requests submitted by Plaintiffs for payment for their time and expenses in litigating this case on behalf of the Settlement Class are reasonable and adequately documented, and accordingly awards \$2,070 to Plaintiff Kent Nixon, \$4,625 to Plaintiff Joseph Saville, \$5,000 to Plaintiff Ron Miller, \$5,000 for Plaintiff Nina van Dyke, and \$3,750 to Charles E. Mendinhall. At the request of Plaintiffs' Counsel, in the interests of preserving the corpus of the Net Settlement Fund, the aforementioned reimbursements awarded to the Plaintiffs shall be paid to them by Plaintiffs' Counsel from this Court's award of attorneys' fees to Plaintiffs' Counsel.

19. The Court finds that the Claims Administrator, GCG, has incurred costs and expenses to date in providing notice to the settlement Class as directed by the Preliminary Approval Order and administering the Settlement of \$307,394.09, which the Court finds reasonable and commercially competitive, and hereby approves interim payment of that amount from the Settlement Fund.

18. All payments of attorneys' fees and reimbursement of expenses to Plaintiffs, Plaintiffs' Counsel and/or the Claims Administrator shall be made from the Settlement Fund, and the Released Persons shall have no liability or responsibility for the payment of any such attorneys' fees or expenses except as expressly provided in the Settlement Stipulation.

19. Any objection, order, or appeal from, or appellate modification of, the

portions of this Judgment approving the Plan of Allocation, Plaintiffs' Counsel's award of attorneys' fees and/or reimbursement of litigation expenses, the awards to the Plaintiffs and/or the interim payment of the costs of notice to the Settlement Class and administration of the Settlement incurred to date shall in no way disturb or affect the finality of the approval of the notice to the Settlement Class, the certification of the Settlement Class, or the Settlement as set forth in the Settlement Stipulation under this Judgment, and shall be considered separate from this Judgment.

20. The Court finds that Plaintiffs and Defendants, and their respective counsel, have, at all times during the course of the Litigation, complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure. The Court finds that the amount paid and the other terms of the Settlement were negotiated at arm's length and in good faith by the Parties and reflect a settlement that was reached voluntarily based upon adequate information and after consultation with experienced legal counsel and under the supervision of a mediator.

21. Without affecting the finality of this Judgment in any way, the Court hereby reserves and retains exclusive and continuing jurisdiction over the Parties and the Settlement Class Members for all matters relating to the Litigation, the Settlement, and the Settlement Stipulation, including, but not limited to: (a) the administration, interpretation, effectuation or enforcement of the Settlement Stipulation and this Judgment; (b) implementation and enforcement of any awards from the Settlement Fund or Net Settlement Fund; (c) interpretation of the Plan of Allocation and disposition of the Settlement Fund or Net Settlement Fund; (d) determining applications for payment of

expenses incurred by Plaintiffs' Counsel in connection with administration and distribution of the Settlement Fund and Net Settlement Fund; (e) payment of taxes by the Settlement Fund; and (f) any other matters related to finalizing the Settlement and distributions from the Settlement, the Settlement Fund and/or the Net Settlement Fund.

22. In the event that the Settlement does not become Final or the Effective Date does not occur, (i) this Judgment shall be rendered null and void and shall be vacated *nunc pro tunc*, (ii) the Litigation shall proceed as set forth in the Settlement Stipulation, and (iii) no Party may assert that another Party is estopped (whether equitably, judicially, or collaterally) from taking any position regarding any substantive or procedural issue in the Litigation by virtue of anything in the Settlement Stipulation, having entered into the Settlement Stipulation, or having done anything in connection with or related to the Settlement. For the purposes of this paragraph, the Parties shall include Settlement Class Members.

23. It is expressly determined, within the meaning of Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay, and the Clerk of this Court is hereby directed to enter this Judgment forthwith.

Signed this 11 day of June, 2012.

BY THE COURT


HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT COURT JUDGE

EXHIBIT 1

The following persons and entities are excluded from the Settlement Class:

A. Anderson & E.S. Anderson, Joint Tenants

Saverio Anfuso & Mary Ann Anfuso, Joint Tenants

Sidney J. Bertucci

Betty Bledsoe

William B. Bledsoe

Frank R. Brennan

C. Robert & Guida R. Chamberlain Family Trust

C. Robert & Guida R. Chamberlain Loving Trust

Carlyle & Ruth K. Blodale Trust

Claire I. Grant Trust

Wiley W. Fowler

George Franko, Jr. and Irene Franko, Joint Tenants

Donna J. Grant-Watters

and Donna J. Grant-Watters, on behalf of the Estate of Colin D. Grant-Watters

Clarence E. Hagedorn & Loretta L. Hagedorn, Joint Tenants

The Judith Walser Revocable Trust

Amelia Leconte

George Michael

James E.S. O'Neill

Havis O. Owens

Havis O. Owens & Linda E. Owens, Joint Tenants

William M. Proft & Barbara W. Proft

John A. Retz & Dolores A. Retz TEN ENT TOD Account

Jack O. Roberts

Jonathan Rodney

J. Scott Simons

Peter Strettan and Sharon Strettan

Dwight L. Tyrrell

TAB 12

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

In re KRISPY KREME DOUGHNUTS, INC.)	
SECURITIES LITIGATION)	
_____)	ORDER AWARDING ATTORNEYS' FEES AND
)	REIMBURSEMENT OF EXPENSES
This Document Relates To:)	
)	
ALL ACTIONS.)	Master File No. 1:04CV00416
_____)	

THIS MATTER having come before the Court on February 7, 2007, on the application of Class Lead Counsel for an award of attorneys' fees and reimbursement of expenses incurred in the Class Action; the Court, having considered all papers filed and proceedings conducted herein, having found the settlement of the Class Action to be fair, reasonable and adequate and otherwise being fully informed in the premises and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation and Agreement of Class and Derivative Settlement dated as of October 30, 2006 (the "Stipulation").

2. This Court has jurisdiction over the subject matter of the application and all matters relating thereto, including all Members of the Settlement Class who have not timely and validly requested exclusion.

3. The Court has reviewed and considered the objections submitted by Dennis P. McBride and the New York State Teachers' Retirement System. The Court finds the above objections to be without merit and hereby overrules each of the objections.

4. The Court finds that the amount of fees awarded is fair and reasonable under the percentage of recovery method and further finds that a fee award of 23.5% of the Class Settlement Fund is consistent with awards made in similar cases.

5. The Court hereby awards Class Lead Counsel attorneys' fees of 23.5% of the Class Settlement Fund. Said fees shall be paid in cash, stock and warrants in the same proportions that the aggregate Net Settlement Fund is distributed to Authorized Claimants. The Court hereby awards reimbursement of expenses in an aggregate amount of \$423,244.81 to be paid from the cash portion of the Class Settlement Fund. Said fees and expenses shall include

interest earned on the cash portion of the Class Settlement Fund for the same time period and at the same rate as that earned on the Class Settlement Fund until paid. Said fees shall be allocated by Class Lead Counsel in a manner which, in their good faith judgment, reflects each counsel's contribution to the institution, prosecution and resolution of the Class Action.

6. To the extent available, the awarded attorneys' fees and expenses, and interest earned thereon, shall be paid from the Class Settlement Fund immediately after the date this Order is executed subject to the terms, conditions, and obligations of the Stipulation and in particular ¶ 6.2 thereof, which terms, conditions, and obligations are incorporated herein.

IT IS SO ORDERED.

DATED: February 15, 2007


WILLIAM L. OSTEEN
UNITED STATES DISTRICT JUDGE

TAB 13

E-Filed 9/26/08

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

In re MERCURY INTERACTIVE CORP.
SECURITIES LITIGATION

Master File No. 5:05-CV-3395-JF (PVT)

CLASS ACTION

This Document Relates To:

ALL ACTIONS

~~[PROPOSED]~~ ORDER AWARDING
ATTORNEYS' FEES AND REIMBURSING
EXPENSES

This matter came before the Court for hearing pursuant to the Order Preliminarily Approving Settlement and Providing for Notice ("Order") dated July 2, 2008, on the application of the parties for approval of the settlement set forth in the Stipulation of Settlement dated as of October 31, 2007 (the "Stipulation"), Lead Plaintiff having moved for an order awarding counsel fees to Lead Counsel for the work of Lead Counsel and the other class counsel in prosecuting this action and in obtaining the settlement which has been submitted to the Court for final approval and for the reimbursement of disbursements expended in the prosecution of the litigation, and the Court having reviewed the papers submitted in support of the motion and being familiar with the work performed by Lead Counsel and other class counsel during the course of the Action, and the Notice sent to members of the Class having set forth the maximum fees and disbursements for which Lead Counsel would be applying, and Lead Counsel having advised Class members of the procedure and deadline for objecting to the Settlement, the Plan of

Allocation and the proposed fee application and request for reimbursement of disbursements and the deadline for filing such objections, now, therefore, it is

1. ORDERED that Lead Counsel is awarded 25 % of the Settlement Fund created through their efforts as and for legal fees in the matter together with a proportionate share of the interest earned on the Settlement Fund from inception to the date of payment at the same rate as was earned by the Settlement Fund, to be distributed by Lead Counsel to those counsel who participated in the prosecution of the action in such manner as Lead Counsel, in their discretion, believe reflects the contribution by such counsel, and it is further;

2. ORDERED that Lead Counsel is awarded the amount of \$416,538.46 out of the Settlement Fund in reimbursement for the disbursements incurred by counsel in the prosecution of the Action, together with a proportionate share of the interest earned on the Settlement Fund from the date of inception to the date of payment at the same rate as was earned by the Settlement Fund.

IT IS SO ORDERED.

Dated: 9/25/08


THE HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT JUDGE

TAB 14

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re MoneyGram International, Inc.)	
Securities Litigation)	Consolidated Case No.: Civ. No. 08-883
)	(DSD/JJG)
)	
)	
)	
)	
)	
)	
)	
)	

FINAL ORDER AND JUDGMENT

WHEREAS, on March 9, 2010, Lead Plaintiff, on behalf of itself and the Class, on the one hand, and MoneyGram International, Inc. (“MoneyGram” or the “Company”), William J. Putney, Jean C. Benson, Philip W. Milne, David J. Parrin, Douglas L. Rock, Donald E. Kiernan, Othón Ruiz Montemayor, Albert M. Teplin, and Monte E. Ford (collectively, the “Defendants”), on the other hand, executed a Stipulation and Agreement of Settlement (the “Stipulation”) that would resolve the above-captioned action (the “Action”) for payment of \$80,000,000 on behalf of the Released Persons (the “Settlement”).

WHEREAS, this Court preliminarily approved the Settlement by Order of the Court dated March 10, 2010 (Docket No. 159);

WHEREAS, after a hearing before this Court on the 18th day of June, 2010 (the “Fairness Hearing”), to (i) determine whether the Settlement should be approved by the Court as fair, reasonable and adequate; (ii) determine whether judgment should be entered pursuant to the Stipulation, *inter alia*, dismissing the Actions against Defendants with prejudice and extinguishing and releasing all Settled Claims (as defined therein) against all Released Persons; (iii) determine whether the Class should be finally certified for settlement purposes pursuant to Federal Rules of Civil Procedure 23(a)(1-4) and (b)(3); (iv) rule on Lead Counsel’s application for an award of attorneys’ fees and the reimbursement of litigation expenses and Lead Plaintiff’s application for reimbursement of expenses; and (v) rule on such other matters as the Court may deem appropriate.

The Court has considered all matters submitted to it at the Fairness Hearing and otherwise, the pleadings on file, the applicable law, and the record.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court, for purposes of this Final Order and Judgment (the “Judgment”) adopts all defined terms as set forth in the Stipulation, and incorporates them herein by reference as if fully set forth.
2. The Court has jurisdiction over the subject matter of the Action and the Parties, including Lead Plaintiff and all Class Members.
3. The Court finds that the prerequisites for a class action under Federal Rules of Civil Procedure 23(a) and (b)(3) have been satisfied in that: the number of Class Members is so numerous that joinder of all Class Members is impracticable; there are questions of law and fact common to the Class; the claims of Lead Plaintiff are typical of

the claims of the Class they seek to represent; Lead Plaintiff and Lead Counsel have at all times fairly and adequately represented the interests of the Class; and a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering: (a) the interests of the Class Members in individually controlling the prosecution or of separate actions, (b) the extent and nature of any litigation concerning the controversy already commenced by members of the Class, (c) the desirability or undesirability of continuing the litigation of these claims in this particular forum, (d) and the difficulties likely to be encountered in the management of a class action.

4. Pursuant to Federal Rule of Civil Procedure 23(b)(3), the Court has certified, for settlement purposes only, a Class that shall consist of all persons and entities who purchased or otherwise acquired MoneyGram Securities during the Class Period (January 24, 2007 through March 25, 2008). Excluded from the Class are: (i) Defendants; (ii) all officers, directors, and partners of any Defendant and of any Defendant's partnerships, subsidiaries, or affiliates; (iii) Thomas H. Lee Partners, L.P., and any of its officers, directors, and partners, subsidiaries, affiliates, members, investors, or partnerships; (iv) Goldman Sachs & Co. and any of its officers, directors, and partners, subsidiaries, affiliates, members, or partnerships; (v) members of the immediate family of any of the foregoing excluded persons and entities; (vi) the legal representatives, heirs, successors, and assigns of any of the foregoing excluded persons and entities; (vii) any entity in which any of the foregoing excluded persons and entities has or had a controlling interest. Also excluded from the Class are any putative members of the Class

who excluded themselves by timely requesting exclusion in accordance with the requirements set forth in the Notice, as listed on Exhibit 1 annexed hereto.

5. The Notice, the Publication Notice and the notice methodology implemented pursuant to the Stipulation and the Court's orders (i) constituted the best notice practicable under the circumstances to all persons within the definition of the Class, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, of the effect of the Stipulation, including releases, of their right to object to the proposed Settlement, of their right to exclude themselves from the Class, and of their right to appear at the Fairness Hearing, (iii) were reasonable and constituted due, adequate and sufficient notice to all persons or entities entitled to receive notice and (iv) met all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended, including by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), the Rules of the Court and any other applicable law.

6. Pursuant to and in accordance with Rule 23 of the Federal Rules of Civil Procedure, the Settlement, including, without limitation, the Settlement Amount, the releases set forth therein, and the dismissal with prejudice of the Settled Claims against the Released Persons set forth therein, is finally approved as fair, reasonable and adequate. The Parties are hereby authorized and directed to comply with and to consummate the Settlement in accordance with the Stipulation, and the Clerk of this Court is directed to enter and docket this Judgment in the Action.

7. The Action and the Complaint and all claims included therein, as well as all of the Settled Claims (defined in the Stipulation and in Paragraph 8(c) below), which the Court finds was filed against Defendants on a good faith basis by Lead Plaintiff and Lead Counsel in accordance with the PSLRA and Rule 11 of the Federal Rules of Civil Procedure based upon all publicly available information, are dismissed with prejudice as to Lead Plaintiff and all other members of the Class, and as against each and all of the Released Persons (defined in the Stipulation and in Paragraph 8(a) below). Regardless of whether or not a member of the Class receives any distributions from the Settlement, or executes and delivers the Proof of Claim provided for in the Stipulation, each and all Class Members who have not validly and timely requested exclusion, on behalf of themselves and their respective predecessors, successors and assigns, are hereby deemed to have finally, fully, and forever released, relinquished, and discharged all of the Released Persons from the Settled Claims. The Parties are to bear their own costs, except as otherwise provided in the Stipulation.

8. As used in this Judgment, the terms “Released Persons,” “Related Persons,” “Settled Claims,” “Settled Defendants’ Claims,” and “Unknown Claims” shall have the meanings set forth below:

- a. “Released Persons” means MoneyGram, the Individual Defendants, the Carriers, and the Related Persons;
- b. “Related Persons” means each of MoneyGram’s or an Individual Defendant’s past or present directors, officers, employees, partners (general or limited), principals, members, managing members, insurers and co-

insurers (including but not limited to the Carriers), re-insurers, controlling shareholders, attorneys, advisors, accountants, auditors, personal or legal representatives, predecessors, successors, divisions, joint ventures, assigns, spouses, heirs, executors, parents, subsidiaries, affiliates (including the offices and directors of such parents, subsidiaries, and affiliates), any entity in which MoneyGram or an Individual Defendant has a controlling interest, any member of any Individual Defendant's immediate family, or any trust of which any Individual Defendant is the settlor or which is for the benefit of any member of an Individual Defendant's immediate family.

c. "Settled Claims" means Settled Defendants' Claims and Settled Plaintiffs' Claims.

d. "Settled Defendants' Claims" means and includes any and all claims (including Unknown Claims, as defined below), debts, demands, controversies, obligations, losses, costs, rights or causes of action or liabilities of any kind or nature whatsoever (including, but not limited to, any claims for damages (whether compensatory, special, incidental, consequential, punitive, exemplary or otherwise), injunctive relief, declaratory relief, rescission or rescissionary damages, interest, attorneys' fees, expert or consulting fees, costs, expenses, or any other form of legal or equitable relief whatsoever), whether based on federal, state, local, foreign, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or

unliquidated, at law or in equity, matured or unmatured, that have been or could have been asserted in the Action or any forum by the Released Persons against any of the Lead Plaintiff, Lead Counsel, Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action. Notwithstanding the foregoing, or any other provision contained in this Stipulation, Settled Defendants' Claims shall not include any claims to enforce the Settlement, including, without limitation, any of the terms of this Stipulation or of any orders or judgments issued by the Court in connection with the Settlement.

e. "Settled Plaintiffs' Claims" means and includes any and all claims (including Unknown Claims), rights, debts, demands, controversies, obligations, losses, costs, suits, matters, issues, or causes of action (including, but not limited to, any claims for damages (whether compensatory, special, incidental, consequential, punitive, exemplary or otherwise), injunctive relief, declaratory relief, rescission or rescissionary damages, interest, attorneys' fees, expert or consulting fees, costs, expenses, or any other form of legal or equitable relief whatsoever), under federal, state, local, foreign law, or any other law, rule, or regulation, whether known or unknown, that were, could have been, or could in the future be asserted against the Released Persons, as defined above, by Plaintiffs in any court of competent jurisdiction or any other adjudicatory tribunal, in connection with, arising out of, related to, based upon, in whole

or in part, directly or indirectly, in any way, to the facts, transactions, events, occurrences, acts, disclosures, oral or written statements, representations, filings, publications, disseminations, press releases, presentations, accounting practices or procedures, compensation practices or procedures, omissions or failures to act or to disclose which were or which could have been alleged or described in this Class Action by Plaintiffs. The Settled Plaintiffs' Claims include, but are not limited to, any and all claims related to or arising out of the Company's public filings, press releases or other public statements or disseminations, the Company's accounting for and valuation of the securities held in its investment portfolio, the Company's finances, accounting practices or procedures generally, and any direct claims for breach of fiduciary duty, insider trading, misappropriation of information, failure to disclose, omission or failures to act, abuse of control, breach of MoneyGram's policies or procedures, waste, mismanagement, gross mismanagement, unjust enrichment, misrepresentation, fraud, breach of contract, unfair business practices and unfair competition, negligence, breach of duty of care or any other duty, violations of law, money damages, injunctive relief, corrective disclosure, damages penalties, disgorgement, restitution, interest, attorneys' fees, expert or consulting fees, and any and all other costs, expenses or liability whatsoever, whether based on federal, state, local, foreign, statutory, common law, or any other law, rule or regulation, whether fixed

or contingent, accrued or un-accrued, liquidated or unliquidated, at law or inequity, matured or un-matured, including both known claims and Unknown Claims that were or that could have been alleged in the Consolidated Amended Complaint in this Action. Settled Plaintiffs' Claims shall not include:

- (i) any claims to enforce the Settlement, including, without limitation, any of the terms of this Stipulation or of any orders or judgments issued by the Court in connection with the Settlement;
- (ii) any claims asserted by persons who exclude themselves from the Class by timely requesting exclusion in accordance with the requirements set forth in the Notice; or
- (iii) any claims, rights or causes of action that have been or could have been asserted on behalf of MoneyGram in the purported Derivative Actions or by individuals pursuant to ERISA.

f. "Unknown Claims" means any and all claims that the Lead Plaintiff or any Class Member does not know or suspect to exist and any and all claims that MoneyGram or any Individual Defendant does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of, as applicable, the Released Persons, Lead Plaintiff, and Class Members, or might have affected his, her or its decision to object or not to object to this Settlement. The parties may

hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Settled Claims, but the parties shall expressly, fully, finally and forever settle and release, and the Parties, upon the Effective Date, shall be deemed to have, and by operation of the Judgment the parties shall have fully, finally, and forever settled and released any and all Settled Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Accordingly, with respect to any and all Settled Claims, the Parties stipulate and agree that, upon the Effective Date, the Parties shall expressly waive and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, waived all provisions, rights and benefits of California Civil Code § 1542 and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or foreign law which is similar, comparable or equivalent to California Civil Code § 1542. California Civil Code § 1542 provides:

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.

The Parties expressly acknowledge, and the Class Members shall be deemed to have, and by operation of the Judgment shall have acknowledged, that the waiver and release of Unknown Claims constituting Settled Claims was separately bargained for and a material element of the Settlement.

9. In accordance with 15 U.S.C. § 78u-4(f)(7)(A), any and all claims for contribution arising out of the claims or allegations of the Action or any Settled Claim (i) by any person or entity against any of the Released Persons, and (ii) by any of the Released Persons against any person or entity other than a person or entity whose liability has been extinguished by the settlement of the Released Person, are hereby permanently barred, extinguished, discharged, satisfied, and unenforceable.

10. Any Class Member receiving notice of the Notice, or having actual knowledge of the Notice, or having actual knowledge of sufficient facts that would cause such person to be charged with constructive notice of the Notice and who did not properly request to be excluded from the Class in accordance with the process set forth in the Notice, is permanently barred, enjoined, and restrained from commencing, prosecuting, continuing, or asserting any Settled Plaintiffs' Claims against the Released Persons, or from receiving any benefits or other relief from, any other lawsuit, arbitration

or other proceeding or order in any jurisdiction that is based upon any Settled Plaintiffs' Claims.

11. Lead Plaintiff and all Class Members on behalf of themselves, their personal representatives, heirs, executors, administrators, trustees, successors and assigns, with respect to each and every Settled Plaintiffs' Claim, release and forever discharge, and are forever barred, enjoined, and restrained from commencing, prosecuting, continuing, or asserting any and all Settled Plaintiffs' Claims against any of the Released Persons, and shall not institute, continue, maintain or assert, either directly or indirectly, whether in the United States or elsewhere, on their own behalf or in a representative capacity on behalf of any class or any other person or entity, any action, suit, cause of action, claim or demand against any Released Person or any other person who may claim any form of contribution or indemnity from any Released Person in respect of any Settled Plaintiffs Claim.

12. The Defendants, on behalf of themselves, their personal representatives, heirs, executors, administrators, trustees, successors and assigns, release and forever discharge each and every one of the Settled Defendants' Claims, and are forever enjoined from prosecuting the Settled Defendants' Claims against Lead Plaintiffs, all Class Members and their respective counsel

13. Notwithstanding ¶¶ 11-12 herein, nothing in this Judgment shall bar any action or claim by any of the Parties or the Released Persons to enforce or effectuate the terms of the Stipulation or this Judgment.

14. Only those Class Members filing valid and timely Proofs of Claim shall be entitled to receive any distributions from the Settlement. The Proofs of Claims to be executed by the Class Members shall contain a release whereby all Released Persons will be released from all Settled Plaintiffs' Claims. The Proof of Claim shall be substantially in the form and content of Tab 2 of the Order for Notice and Hearing.

15. This Judgment and the Stipulation, including any provisions contained in the Stipulation, any negotiations, statements, or proceedings in connection therewith, or any action undertaken pursuant thereto:

- a. shall not be offered or received against, or otherwise prejudice, any Released Person as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by the Released Persons with respect to the truth of any fact alleged by any of the plaintiffs or the validity of any claim that has been or could have been asserted in the Action or in any other action, or the deficiency of any defense that has been or could have been asserted in the Action or in any other action, or of any liability, negligence, fault, damage, or wrongdoing of or by any Released Person;
- b. shall not be offered or received against, or otherwise prejudice, any Released Person as evidence of or be construed as or deemed to be evidence of, any presumption, concession or admission of any fault, misrepresentation or

omission with respect to any statement or written document approved or made by any Released Person;

- c. shall not be offered or received against, or otherwise prejudice, any Released Person as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing in any other civil, criminal or administrative, arbitral or action or proceeding; provided, however, that the Released Persons may offer or refer to the Stipulation to effectuate the terms of the Stipulation, including the releases granted them thereunder, and may file the Stipulation and/or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;
- d. shall not be construed against, or otherwise prejudice, any Released Person as an admission or concession that the consideration to be given hereunder represents the amount that could be or would have been recovered after trial; and

- e. shall not be construed as or received in evidence as an admission, concession or presumption against the Lead Plaintiff or any of the Class Members that any of their claims are without merit, or that any defenses asserted by Defendants have any merit, or that damages recoverable under the Action would not have exceeded the Settlement Amount.

16. The Court hereby appoints Rust Consulting, Inc. as Claims Administrator and Wells Fargo Bank, N.A. as Escrow Agent.

17. The Plan of Allocation is approved as fair and reasonable, and Lead Counsel and the Claims Administrator are directed to administer the Settlement in accordance with the terms and provisions of the Stipulation.

18. The Court finds that all Parties and their counsel have complied with each requirement of the PSLRA and Rules 11 and 37 of the Federal Rules of Civil Procedure as to all proceedings herein and that Lead Plaintiff and Lead Counsel at all times acted in the best interests of the Class and had a good faith basis to bring, maintain and prosecute this Action as to each Defendant in accordance with the PSLRA and Federal Rule of Civil Procedure 11. The Court further finds that Lead Plaintiff and Lead Counsel adequately represented the Class Members for entering into and implementing the Settlement.

19. Only those Class Members who submit valid and timely Proofs of Claim shall be entitled to receive a distribution from the Net Settlement Fund. The Proof

of Claim to be executed by the Class Members shall further release all Settled Claims against the Released Persons. All Class Members shall be bound by all of the terms of the Stipulation and this Judgment, including the releases set forth herein, whether or not they submit a valid and timely Proof of Claim, and shall be barred from bringing any action against any of the Released Persons concerning the Settled Claims.

20. No Class Member shall have any claim against Lead Counsel, the Claims Administrator, or other agent designated by Lead Counsel based on the distributions made substantially in accordance with the Settlement and Plan of Allocation as approved by the Court and further orders of the Court.

21. Neither the Defendants, nor their counsel, shall have any responsibility for, interest in, or liability whatsoever with respect to: (a) the provisions of the Notice, locating Class Members, soliciting Settlement claims or claims administration; (b) the design, administration or implementation of the Plan of Allocation; (c) the determination or administration of taxes; (d) any act, omission or determination of Lead Counsel, the Escrow Agent or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (e) the management, investment or distribution of the Gross Settlement Fund and/or the Net Settlement Fund; (f) the Plan of Allocation; (g) the determination, administration, calculation or payment of claims asserted against the Gross Settlement Fund and/or the Net Settlement Fund; (h) the administration of the Escrow Account; (i) any losses suffered by, or fluctuations in the value of, the Gross Settlement Fund and/or the Net Settlement Fund; or (j) the payment or withholding of

any Taxes, expenses and/or costs incurred in connection with the taxation of the Gross Settlement Fund and/or the Net Settlement Fund or the filing of any tax returns; or (k) any expenses, costs, or losses incurred in connection with any of the above.

22. No Class Member shall have any claim against the Defendants, Defense counsel, or any of the Released Persons with respect to: (a) any act, omission or determination of Lead Counsel, the Escrow Agent or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (b) the management, investment or distribution of the Gross Settlement Fund and/or the Net Settlement Fund; (c) the Plan of Allocation; (d) the determination, administration, calculation or payment of claims asserted against the Gross Settlement Fund and/or the Net Settlement Fund; (e) the administration of the Escrow Account; (f) any losses suffered by, or fluctuations in the value of, the Gross Settlement Fund and/or the Net Settlement Fund; or (g) the payment or withholding of any Taxes, expenses and/or costs incurred in connection with the taxation of the Gross Settlement Fund and/or the Net Settlement Fund or the filing of any tax returns.

23. Any order approving or modifying the Plan of Allocation set forth in the Notice, or the application by Lead Counsel for an award of attorneys' fees and reimbursement of expenses or any request of Lead Plaintiff for reimbursement of reasonable costs and expenses shall not disturb or affect the Finality of this Judgment, the Stipulation or the Settlement contained therein.

24. The Notice stated that Lead Counsel would move for attorneys' fees not to exceed 25% of the Gross Settlement Fund and reimbursement of expenses from the

Gross Settlement Fund in a total amount not to exceed \$650,000. However, in their Motion for Final Approval, Lead Counsel only requested attorney's fees of 24.8% of the Settlement Fund and \$579,426.79 for reimbursement of expenses. Furthermore, on June 9, 2010, Lead Counsel filed a Report with the Court (Docket No. 180) stating that it was modifying its fee request to \$19,000,000.00, or 23.75% of the Settlement Fund.

25. Lead Counsel is hereby awarded a total of \$579,426.79 in reimbursement of expenses. Lead Counsel is hereby awarded attorneys' fees in the amount of \$19,000,000.00 of the Settlement Fund, which sum represents 23.75% of the Settlement Fund, and which sum the Court finds to be fair and reasonable. The foregoing awards of fees and expenses shall be paid to Lead Counsel from the Gross Settlement Fund, and such payment shall be made at the time and in the manner provided in the Stipulation, with interest from the date the Gross Settlement Fund was funded to the date of payment at the same net rate that interest is earned by the Gross Settlement Fund. The appointment and distribution among Lead Counsel of any award of attorneys' fees shall be within Lead Counsel's sole discretion.

26. Lead Plaintiff is hereby awarded \$10,000.00 for its costs and expenses directly relating to the representation of the Class, which the Court finds is fair and reasonable and allowed by 15 U.S.C. § 78u-4(a)(4), plus accrued interest, which sum the Court finds to be fair and reasonable. The foregoing awards of costs and expenses shall be paid to Lead Plaintiff from the Gross Settlement Fund, and such payment shall be made at the time and in the manner provided in the Stipulation, with interest from the

date the Gross Settlement Fund was funded to the date of payment at the same net rate that interest is earned by the Gross Settlement Fund.

27. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Gross Settlement Fund, the Court has considered and found that:

- a. the Settlement has created a fund of \$80,000,000 in cash that is already on deposit, plus interest thereon, and that numerous Class Members who submit acceptable Proofs of Claim will benefit from the Settlement;
- b. Over 73,000 copies of the Notice were disseminated to putative Class Members stating that Lead Counsel were moving for attorneys' fees not to exceed 25% of the Gross Settlement Fund and reimbursement of expenses from the Gross Settlement Fund in a total amount not to exceed \$650,000;
- c. No Class Member filed an objection to the Settlement, Notice, Reimbursement to Lead Plaintiff, Plan of Allocation or Lead Plaintiff's Counsel's request for Reimbursement of Expenses;
- d. One (1) potential Class Member filed objections to the request for an award of attorney's fees and the mechanism by which any undistributed proceeds might be donated to a

charity; the objections were filed on June 4, 2010, on behalf of the Steven D. & Yuki Emmet, M.D., Inc. Pension PSP Trust Dated 10/01/84 (Docket No. 178); that objection was withdrawn and no consideration of any type was paid or offered to be paid to objector or its counsel (Docket No. 181); the Court hereby grants the withdrawal of the objection;

- e. Lead Counsel has conducted the litigation and achieved the Settlement in good faith and with skill, perseverance and diligent advocacy;
- f. The Action involves complex factual and legal issues and was actively prosecuted for nearly two years and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;
- g. Had Lead Counsel not achieved the Settlement there would remain a significant risk that the Lead Plaintiff and the Class may have recovered less or nothing from the Defendants;
- h. Lead Counsel has advanced in excess of the requested \$650,000.00 in costs and expenses to fund the litigation of this Action; and
- i. The amount of attorneys' fees awarded and expenses reimbursed from the Gross Settlement Fund are fair and

reasonable under all of the circumstances and consistent with awards in similar cases.

28. Without affecting the Finality of this Judgment in any way, the Court reserves exclusive and continuing jurisdiction over the Action, the Lead Plaintiff, the Class, and the Released Persons for purposes of: (a) supervising the implementation, enforcement, construction, and interpretation of the Stipulation, the Plan of Allocation, and this Judgment; (b) hearing and determining any application by Lead Counsel for an award of attorneys' fees, costs, and expenses and/or reimbursement to Lead Plaintiff, if such determinations were not made at the Fairness Hearing; (c) supervising the distribution of the Gross Settlement Fund and/or the Net Settlement Fund; and (d) resolving any dispute regarding a party's right to terminate pursuant to the terms of the Stipulation.

29. In the event that the Settlement is terminated or does not become Final in accordance with the terms of the Stipulation for any reason whatsoever, then this Judgment shall be rendered null and void and shall be vacated to the extent provided by and in accordance with the Stipulation, including Lead Counsel and Lead Plaintiff's obligations to return any awards by the Court, and the parties shall return to their positions as provided for in the Settlement.

30. In the event that, prior to the Effective Date, Lead Plaintiff or MoneyGram institutes any legal action against the other to enforce any provision of the Stipulation or this Judgment or to declare rights or obligations thereunder, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties

reasonable attorneys' fees and costs incurred in connection with any such action. The Individual Defendants shall have no obligation under this paragraph.

31. There is no reason for delay in the entry of this Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

Signed this the 18th day of June, 2010.

It is so ORDERED.

s/ David S. Doty

David S. Doty
United States District Judge

TAB 15

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

IN RE RED HAT, INC. SECURITIES LITIGATION

)
)
) Master File
) No. 5:04-CV-473-BR
)

THIS DOCUMENT RELATES TO:

ALL ACTIONS

)

ORDER

This matter is before the court on Lead Plaintiff's motion for final approval of settlement and for award of attorneys' fees and expenses. On 7 December 2010, this court conducted a final fairness hearing pursuant to Rule 23 of the Federal Rules of Civil Procedure. Considering the entire record of these proceedings, the court finds as follows:

1. Notice was provided in a reasonable manner to all class members in accordance with Fed. R. Civ. P. 23(c)(2)(B) and (e)(1) and due process of law.
2. The court has considered the one objection to the settlement, filed 8 October 2010 by Alva Y. Moore.
3. The court directs that any claim filed by Donald K. Reil (as referenced in his letter filed 22 November 2010) be included for processing as if timely filed.
4. The Class Action Fairness Act of 2005 ("CAFA") does not apply to this action, it having commenced in 2004 prior to CAFA's effective date. See Exxon Mobil Corp. v. Allapattah Servs., Inc., 545 U.S. 546, 571 (2005) (recognizing that CAFA is not retroactive); 28 U.S.C. § 1332, Note ("The amendments made by this Act [enacting 28 U.S.C.A. § 1453 and chapter 114 of this title (28 U.S.C.A.

§§ 1711 to 1715), and amending this section and 28 U.S.C.A. §§ 1335, and 1603 of this title] shall apply to any civil action commenced on or after the date of enactment of this Act [Feb. 18, 2005].” (quoting Pub. L. 109-2) (alterations in original)).

5. Pursuant to Fed. R. Civ. P. 23(e)(2), the court finds that the settlement is fair, reasonable, and adequate, and thus the motion for final approval of the settlement is ALLOWED.
6. Except as otherwise set forth herein, the settlement as set forth in the Stipulation of Settlement (DE #208-1) and the allocation of settlement funds to authorized claimants as set forth in the Notice of Proposed Settlement of Class Action (DE #221-1, Ex. A) are hereby approved.
7. The class has received notice of the request for attorneys’ fees and expenses in accordance with Fed. R. Civ. P. 23(h)(1).
8. Having considered the factors set forth in Barber v. Kimbrell’s, Inc., 577 F.2d 216, 226 n.28 (4th Cir. 1978), the court ALLOWS the motion for attorneys’ fees and awards attorneys’ fees in the total amount of \$6,000,000. The court finds this amount to be reasonable in light of the complexity of the case, the history of the litigation, the results obtained, and percentage fee awards in other common benefit fund securities class actions.
9. The court will award expenses in a total amount to be determined subsequently, not to exceed \$350,000.
10. No interest is awarded on the amount of attorneys’ fees or expenses.

11. Lead Plaintiff Charles Gilbert is awarded \$15,000.
12. No attorneys' fees or expenses shall be disbursed until the motion referenced in ¶ 13 below is resolved and until further order of this court. Claims processing and disbursement to class members shall occur as expeditiously as possible without regard to the outstanding issue of the disbursement of attorneys' fees and expenses.
13. The motion of Saxena White P.A., Milberg LLP, and Edmisten & Webb Law Firm (collectively "movants") to participate in the fee and expense application will be held in abeyance. Lead Counsel and movants shall have until 14 January 2011¹ within which to resolve the motion without court intervention. On or before that date, those parties are directed to file notice informing the court whether the parties have resolved the issues raised in the motion. If not so resolved, the undersigned will refer the motion to Magistrate Judge David W. Daniel.

This 10 December 2010.



W. Earl Britt
Senior U.S. District Judge

¹At the final fairness hearing, the court stated that the deadline would be 15 January. However, that day is a Saturday. Thus, the court sets the deadline for the closest business day, 14 January.

TAB 16

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re REGIONS MORGAN KEEGAN)
SECURITIES, DERIVATIVE and)
ERISA LITIGATION)
)
This Document Relates to:)
)
In re Regions Morgan Keegan) No. 2:09-2009 SMH V
Closed-End Fund Litigation,)
)
No. 2:07-cv-02830-SHM-dkv)

ORDER APPROVING PROPOSED SETTLEMENT AND AWARD OF ATTORNEY'S FEES
AND EXPENSES

On behalf of the Class and the Subclass, Plaintiffs the Lion Fund L.P., Dr. Samir J. Sulieman, and Larry Lattimore (collectively, "Lead Plaintiffs"), and C. Fred Daniels in his capacity as Trustee Ad Litem for the Leroy S. McAbee, Sr. Family Foundation Trust (the "TAL") (collectively with the Lead Plaintiffs, "Plaintiffs"), filed a Motion on March 8, 2013, for Final Approval of the Proposed Settlement and Plan of Allocation entered into with Defendants Morgan Keegan & Co., Inc. ("Morgan Keegan"), MK Holding, Inc., Morgan Asset Management, Inc., Regions Financial Corporation ("RFC"), the Closed-End Funds, Allen B. Morgan, Jr., J. Kenneth Alderman, Brian B. Sullivan, Joseph Thompson Weller, James C. Kelsoe, Jr., and Carter Anthony (collectively, "Defendants"). (Mot. for Final App., ECF No.

283.) Also before the Court is Plaintiffs' Motion for Award of Attorney's Fees and Expenses. (Mot. for Atty. Fees, ECF No. 285.)

For the following reasons, Plaintiffs' proposed Class is CERTIFIED. Plaintiffs' Motion for Final Approval is GRANTED. Plaintiffs' Motion for Attorney's Fees and Expenses is GRANTED. The parties' joint Stipulation and Agreement of Settlement and their Plan of Allocation are APPROVED.

I. Standard of Review

A. Approval of Settlement and Certification of Class

Under Federal Rule of Civil Procedure 23, a member of a class may bring suit on behalf of all other members if:

- (1) the class is so numerous that joinder of all members is impracticable;
- (2) there are questions of law or fact common to the class;
- (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and
- (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a).

If these conditions are met a class action may be maintained if:

- (3) the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:
 - (A) the class members' interests in individually controlling the prosecution or defense of separate actions;
 - (B) the extent and nature of any litigation concerning the

controversy already begun by or against class members;
(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
(D) the likely difficulties in managing a class action.

Fed. R. Civ. P. 23(b)(3).

The "claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the court's approval." Fed. R. Civ. P. 23(e). When parties to a class action seek to settle, the Court must comply with the following procedures:

- (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.
- (4) If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.
- (5) Any class member may object to the proposal if it requires court approval under this subdivision (e); the objection may be withdrawn only with the court's approval.

Id.

B. Attorney's Fees and Expenses

Under Rule 23(h), in a "certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." When parties to a class action seek attorney's fees and costs, the Court must comply with the following procedures:

- (1) A claim for an award must be made by motion under Rule 54(d)(2), subject to the provisions of this subdivision (h), at a time the court sets. Notice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.
- (2) A class member, or a party from whom payment is sought, may object to the motion.
- (3) The court may hold a hearing and must find facts and state its legal conclusions under Rule 52(a).
- (4) The court may refer issues related to the amount of the award to a special master or a magistrate judge, as provided in Rule 54(d)(2)(D).

Fed. R. Civ. P. 23(h).

II. Analysis

The Court has reviewed the record in this case, the joint Stipulation and Agreement of Settlement, the Plan of Allocation, all attached exhibits, the Plaintiffs' Motions for preliminary and final approval of the Settlement, the supporting memoranda, and the written objections of Class Members. The Court has held a Preliminary Fairness Hearing and a Final Approval Hearing. (Prelim. Hearing, ECF No. 275; Final Hearing, ECF No. 312.) At the Final Approval Hearing, the Court heard presentations from the Lead Plaintiffs, TAL counsel, the Defendants, and objecting Class Members as well as testimony from the Plaintiffs' expert. (Final Hearing.)

Based on its independent assessment of the record and the information presented by the parties, the Court makes the following findings and reaches the following conclusions.

A. Class Certification

The conditions of Rule 23(a) have been satisfied. There is no dispute that the Class satisfies the numerosity, commonality, and typicality requirements. At the time of the Final Approval Hearing, the claims administrator had distributed nearly 100,000 class action notices to potential Class Members and more than 7,000 proofs of claim had been filed. All potential Class Members had purchased or acquired shares of the Closed-End Funds between 2003 and 2009.

After considering numerous motions for appointment, the Court decided that the Lead Plaintiffs were best qualified to represent the Class. (Order Appt. Counsel, ECF No. 179.) There is no dispute about the adequacy of the Class representatives. No party or Class Member has given the Court good cause to believe that the Lead Plaintiffs have not fairly and adequately protected the interests of the Class.

The conditions of Rule 23(b)(3) have been satisfied. The injuries of the Class Members are the same in kind if not in degree. The questions of law and fact common to the Class predominate over any questions affecting only individual members. Because there are so many potential Class Members, a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

The Class is CERTIFIED as described in the Preliminary Approval Order:

All Persons who purchased or otherwise acquired the publicly traded shares of (i) RMH between June 24, 2003 and July 14, 2009, inclusive, and were damaged thereby; (ii) RSF between March 18, 2004 and July 14, 2009, inclusive, and were damaged thereby; (iii) RMA between November 8, 2004 and July 14, 2009, inclusive, and were damaged thereby; (iv) RHY between January 19, 2006 and July 14, 2009, inclusive, or pursuant or traceable to the Registration Statement, Prospectus, and Statement of Additional Information (the "RHY Offering Materials") filed by RHY on or about January 19, 2006 with the SEC, and were damaged thereby; and (v) all members of the TAL Subclass.

Excluded from the Class and as Class Members are the Defendants; the members of the immediate families of the Defendants; the subsidiaries and affiliates of Defendants; any person who is an executive officer, director, partner or controlling person of the Closed-End Funds or any other Defendant (including any of its subsidiaries or affiliates, which include but are not limited to Morgan Asset Management, Inc., Regions Bank, Morgan Keegan, RFC, and MK Holding, Inc.); any entity in which any Defendant has a controlling interest; any Person who has filed a proceeding with FINRA against one or more Released Defendant Parties concerning the purchase of shares in one or more of the Closed-End Funds during the Class Period and such proceeding was not subsequently dismissed to allow the Person to specifically participate as a Class Member; any Person who has filed a state court action that has not been removed to federal court, against one or more of the Defendants concerning the purchase of shares in one or more of the Closed-End Funds during the Class Period and whose claims in that action have been dismissed with prejudice, released, or fully adjudicated absent a specific agreement with such Defendant(s) to allow the person to participate as a Class Member; and the legal representatives, heirs, successors and assigns of any such excluded person or entity. These exclusions do not extend to trusts or accounts as to which the control or legal ownership by any Defendant (or by any subsidiary or affiliate of any Defendant) is derived or arises from an appointment as trustee, custodian, agent, or other fiduciary ("Fiduciary Accounts") unless with respect to any such Fiduciary Account any Person has filed a proceeding with FINRA against one or more Released Defendant Parties concerning the purchase of shares in one or more of the Closed-End Funds during the Class Period and such proceeding was not

subsequently dismissed to allow the Person to specifically participate as a Class Member; any Person who has filed a state court action that has not been removed to federal court, against one or more of the Defendants concerning the purchase of shares in one or more of the Closed-End Funds during the Class Period and whose claims in that action have been dismissed with prejudice, released, or fully adjudicated absent a specific agreement with such Defendant(s) to allow the Person to participate as a Class Member (and such exclusion shall apply to the legal representatives, heirs, successors and assigns of any such excluded Person, entity or Fiduciary Account). With respect to Closed-End Fund shares for which the TAL Orders authorize the Trustee Ad Litem to prosecute the claims or causes of action pleaded in the Complaint in the Action ("TAL Represented Closed-End Fund Shares"), "Class" and "Class Member" also excludes Persons who are, or were during the Class Period, trust and custodial account beneficiaries, principals, settlors, co-trustees, and others owning beneficial or other interests in the TAL Represented Closed-End Fund Shares ("Such Persons"), but this exclusion applies only to any claims or causes of action of Such Persons that the Trustee Ad Litem is not authorized by the TAL Orders to prosecute. With respect to Closed-End Fund Shares that are not TAL Represented Closed-End Fund Shares and in which Such Persons have a beneficial or other interest, the foregoing partial exclusion of Such Persons does not apply. Also excluded from the Class and as Class Members are those Persons who submit valid and timely requests for exclusion from the Class in accordance with the requirements set forth in the Notice.

(Prelim. Order, ECF No. 276.)

Persons and entities who have been deemed excluded from Class Membership are identified in the Court's May 17, 2013 and July 26, 2013 Orders, (ECF No. 330; ECF No. 344), and in the Plaintiffs' May 24, 2013 exhibit, (ECF No. 331-2).

B. Sufficiency of Notice

Due process requires that notice to a class be "reasonably calculated, under all the circumstances, to apprise interested

parties of the pendency of the action and afford them an opportunity to present their objections." Vassalle v. Midland Funding LLC, 708 F.3d 747, 759 (6th Cir. 2013) (internal quotation marks and citations omitted)). "[A]ll that the notice must do is fairly apprise the prospective members of the class of the terms of the proposed settlement so that class members may come to their own conclusions about whether the settlement serves their interests." Id. (internal quotation marks and citations omitted).

The Court approved the Notice submitted by Plaintiffs at the Preliminary Approval Hearing. (Prelim. Order.) The Notice describes the nature of the class action, the proposed settlement terms, the proposed Plan of Allocation, and the requested attorney's fees and expenses in detail. (Notice, ECF No. 260-2.) The Notice is written to be understood by non-attorneys. (Id.) The Court approved the proposed methods of disseminating the Notice. At the time of the Final Approval Hearing, the claims administrator had sent nearly 100,000 Notices by mail and had received more than 7,000 proofs of claim in response. The Defendants had received more than 10,000 requests for share purchase and sale information in response to the Notice. The Court received four timely and valid objections, one untimely objection, and one invalid objection from a non-class member.

The Notice was sufficient. The due process requirements have been met.

C. Settlement Approval

In compliance with Rule 23(e), the Court required the Plaintiffs to send Notices of Class Action, Proofs of Claim, and information about Requests for Exclusion to all Class Members by means reasonably calculated to give them actual notice of the pendency of the class action and the terms of the proposed Settlement. (Prelim. Order); Fed. R. Civ. P. 23(e)(1). The parties filed a Stipulation and Agreement of Settlement identifying all agreements made in connection with the proposed Settlement. (ECF No. 260); Fed. R. Civ. P. 23(e)(3). The Court allowed all Class Members to file written objections to the proposed Settlement and held a Final Approval Hearing at which proper objectors were entitled to appear. (Prelim. Order; Final Hearing); Fed. R. Civ. P. 23(e)(2), 23(e)(5).

The procedural requirements of Rule 23(a), (b), and (e) have been satisfied. Final approval of the proposed Settlement is warranted if the Court finds that the terms of the Settlement are fair, reasonable, and adequate.

"A district court looks to seven factors in determining whether a class action settlement is fair, reasonable, and adequate: '(1) the risk of fraud or collusion; (2) the complexity, expense and likely duration of the litigation; (3)

the amount of discovery engaged in by the parties; (4) the likelihood of success on the merits; (5) the opinions of class counsel and class representatives; (6) the reaction of absent class members; and (7) the public interest.'" Vassalle, 708 F.3d at 754-755 (quoting UAW v. GMC, 497 F.3d 615, 631 (6th Cir. 2007)). The Court has "'wide discretion in assessing the weight and applicability' of the relevant factors." Id. (quoting Granada Invest., Inc. v. DWG Corp., 962 F.2d 1203, 1205-06 (6th Cir. 1992)). Although the Court need not decide the merits of the case or resolve unsettled legal questions, the Court cannot "'judge the fairness of a proposed compromise' without 'weighing the plaintiff's likelihood of success on the merits against the amount and form of the relief offered in the settlement.'" Id. (quoting UAW, 497 F.3d at 631) (internal citations omitted).

The parties seek approval of a monetary Settlement in the amount of \$62,000,000.00. All of the UAW factors support the fairness, reasonableness, and adequacy of the proposed Settlement. The parties protected against the risk of fraud or collusion by using a highly qualified and experienced independent mediator during settlement negotiations. The parties engaged in arms-length negotiations. The complexity and expense of the litigation are evident. The litigation has been pending for more than five-and-a-half years. The matter before the Court represents a consolidation of seven cases; tens of

thousands of claims could be made on the settlement fund.

If the case were to proceed to trial, the Plaintiffs would face a daunting task in establishing loss causation and liability because there is evidence of both management failures and market decline. The parties have stated that they will proceed to trial if the proposed Settlement is rejected. Although the case has not reached the summary judgment stage, the Plaintiffs have completed a substantial amount of discovery to support their loss valuation theory and their mediation position. Because of the complexity of the case, discovery costs would be much higher before the case could proceed to trial.

The opinions of Class counsel and the reactions of Class Members also support approval of the Settlement. Class counsel have represented to the Court that, given the circumstances of the case and the anticipated litigation risk, they believe they have achieved the best possible result. From the tens of thousands of potential Class Members, the Court has received four valid and timely objections, one untimely objection, and one invalid objection raised by a non-class member. (ECF No. 309.) The Court has considered all of the objections and heard from two of the objectors at the Final Approval Hearing. None of the objections has caused the Court to conclude that the proposed Settlement is unfair, unreasonable, or inadequate.

Settlement is also in the public interest. It will conserve judicial resources and permit monetary recovery for potentially tens of thousands of individuals and entities. The Release is narrow and does not implicate individuals or entities with claims outside the Class.

"The most important of the factors to be considered in reviewing a settlement is the probability of success on the merits. The likelihood of success, in turn, provides a gauge from which the benefits of settlement must be measured."

Poplar Creek Dev. Co. v. Chesapeake Appalachia, L.L.C., 636 F.3d 235, 245 (6th Cir. 2011) (quoting In re Gen. Tire & Rubber Co. Sec. Litig., 726 F.2d 1075, 1086 (6th Cir. 1984)). The Plaintiffs' likelihood of success on the merits is questionable for several reasons. First, the Defendants argue that they have strong defenses but have chosen to settle because of the projected costs of discovery, the uncertainty and disruption to the Defendants' ongoing businesses, and the risk of higher damages. Second, the Defendants argue, and the Plaintiffs admit, that the Plaintiffs did not have to show loss causation to obtain the proposed Settlement. The Defendants contend that loss causation would be difficult to prove under the circumstances of this case. They argue that, if the Plaintiffs were required to prove the portion of the loss attributable to the Defendants, recovery would be significantly reduced. The

Defendants also argue that it would be difficult at trial for the Plaintiffs to prove material fraudulent misrepresentations and to establish that Morgan Keegan and RFC were controlling persons of the Funds.

Finally, the Plaintiffs' novel damages valuation methodology could be excluded at trial for failure to satisfy the expert testimony standard in Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993). "Before an expert may testify at trial, the district 'court must make a preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid and of whether that reasoning or methodology properly can be applied to the facts in issue.'" United States v. Watkins, 450 F. App'x 511, 515 (6th Cir. 2011) (quoting United States v. Smithers, 212 F.3d 306, 313 (6th Cir. 2000) (internal quotations and citations omitted)). At the Final Approval Hearing, the Plaintiffs' expert described substantial differences between the methodology he employed and generally accepted methodologies. Plaintiffs' expert admitted that his method was otherwise untested and that it used daily net asset values as a novel proxy for the potentially fraudulent or misleading statements of Fund managers. It is possible that the expert's method would be found invalid. If the Plaintiffs' damages valuations were excluded at trial, their likelihood of success on the merits and the amount of any recovery would be

greatly reduced.

The proposed Settlement offers the Class Members a monetary recovery for their monetary loss. Based on the information presented by the parties and the objectors, counsel for the Plaintiffs were able to negotiate a multi-million dollar recovery for the Class based on a novel theory. The Plaintiffs' expert testified that, under generally accepted damages valuation models, the total loss to the Class attributable to the Defendants would have been between one sixth and one third of the proposed Settlement amount.

Although the proposed Settlement allows the Class Members to recover, at best, 18% of their losses as alleged by the Plaintiffs, monetary relief is guaranteed. The Plaintiffs could succeed on the merits, but the likelihood is problematic and their theory of recovery introduces unusual litigation risks. Based on these considerations, the proposed Settlement confers a substantial benefit on the Class Members.

The Sixth Circuit looks beyond the UAW factors when evaluating the fairness of a settlement to determine whether the proposed settlement "'gives preferential treatment to the named plaintiffs while only perfunctory relief to unnamed class members.'" Vassalle, 708 F.3d at 755 (quoting Williams v. Vukovich, 720 F.2d 909, 925 n.11 (6th Cir. 1983)). Under the proposed Settlement, each Class Member receives a pro rata share

of the settlement fund based on the number of shares the Class Member purchased. The parties have represented to the Court that there is no side agreement promising a bonus or a different type of relief to the named Plaintiffs.

The form and amount of recovery in the proposed Settlement appropriately balance the risks of litigation. All of the UAW factors weigh in favor of concluding that the proposed Settlement is fair, reasonable, and adequate. Plaintiffs' Motion for Final Approval is GRANTED. The Stipulation and Agreement of Settlement and the Plan of Allocation are ADOPTED and APPROVED.

E. Attorney's Fees and Expenses

In compliance with Rule 23(h), the Plaintiffs have filed a Motion for Award of Attorney's Fees and Expenses that conforms to the requirements of Rule 54(d)(2). (Mot. for Atty. Fees.) Notice of the Motion was served on all parties through the Court's Electronic Filing Docket and on Class Members by mail. (See ECF No. 301.) The Class Members and the Defendants were given an opportunity to object to the Motion. (Prelim. Order.) The Court heard argument from the Lead Plaintiffs, TAL Counsel, Defendants, and several objectors at the Final Approval Hearing.

All of the procedural prerequisites to an award of attorney's fees and expenses have been satisfied. The question is whether the attorney's fees and expenses requested are

reasonable. In general, "there are two methods for calculating attorney's fees: the lodestar and the percentage-of-the-fund." Van Horn v. Nationwide Prop. & Cas. Ins. Co., 436 F. App'x 496, 498 (6th Cir 2011). "District courts have discretion 'to select the more appropriate method for calculating attorney's fees in light of the unique characteristics of class actions in general, and of the unique circumstances of the actual cases before them.'" Id. (quoting Rawlings v. Prudential-Bache Props., Inc., 9 F.3d 513, 516 (6th Cir. 1993)). "The lodestar method better accounts for the amount of work done, while the percentage of the fund method more accurately reflects the results achieved." Rawlings, 9 F.3d at 516. A district court "generally must explain its 'reasons for adopting a particular methodology and the factors considered in arriving at the fee.'" Id. (quoting Moulton v. U.S. Steel Corp., 581 F.3d 344, 352 (6th Cir. 2009)).

Plaintiffs move the Court to approve a percentage-of-the-fund, or common fund, award of attorney's fees in the amount of \$18,600,000.00, or 30% of the total common fund. (Mem. in Supp. of Mot. for Atty. Fees, ECF No. 86.) The Plaintiffs contend that the reasonableness of their request is supported by a "lodestar cross-check," a method by which the party requesting an award works backward from the requested amount to determine the multiplier that would be necessary to reach that amount if the party had instead used the lodestar method to determine the

requested fee. (Id.) If the resulting multiplier is within the accepted range, it supports the party's contention that its fee request is reasonable. (Id.)

To recover attorney's fees under the common fund doctrine, "(1) the class of people benefitted by the lawsuit must be small in number and easily identifiable; (2) the benefits must be traceable with some accuracy; and (3) there must be reason for confidence that the costs can in fact be shifted with some exactitude to those benefitting." Geier v. Sundquist, 372 F.3d 784, 790 (6th Cir. 2004). These factors are not satisfied "'where litigants simply vindicate a general social grievance,'" but are satisfied "'when each member of a certified class has an undisputed and mathematically ascertainable claim to part of a lump-sum judgment recovered on his behalf.'" Id. (quoting Boeing Co. v. Van Gemert, 444 U.S. 472, 478 (1980)). For that reason, "the common fund method is often used to determine attorney's fees in class action securities cases." Id.

The instant class action is a securities case. Each Class Member who submits a proper proof of claim will receive a pro rata share of the settlement fund based on the number of shares the Member purchased during the Class Period. Although the Class is large, each Class Member is easily identifiable and the benefit to each Member is easily traceable to the work of Plaintiffs' counsel. Because recovery is pro rata, if the

common fund method is applied, each Class Member will in effect pay a portion of the attorney's fees and expenses based on the size of the Class Member's recovery.

The common fund method is the more appropriate method for calculating attorney's fees in this case. "In common fund cases, the award of attorney's fees need only 'be reasonable under the circumstances.'" Id. (quoting Rawlings, 9 F.3d at 516). "The 'majority of common fund fee awards fall between 20% and 30% of the fund.'" Gooch v. Life Investors Ins. Co. of Am., 672 F.3d 402, 426 (quoting Waters v. Int'l Precious Metals Corp., 190 F.3d 1291, 1294 (11th Cir. 1999)). Although the Court may award fees in its discretion, it should consider:

(1) the value of the benefit rendered to the plaintiff class; (2) the value of the services on an hourly basis; (3) whether the services were undertaken on a contingent fee basis; (4) society's stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (5) the complexity of the litigation; and (6) the professional skill and standing of counsel involved on both sides.

Moulton, 581 F.3d at 352 (quoting Bowling v. Pfizer, Inc., 102 F.3d 777, 780 (6th Cir. 1996)).

In this case, there is no dispute that the litigation is complex, that counsel for all parties are highly skilled and nationally well-regarded, and that counsel for the Plaintiffs undertook a substantial risk and bore considerable costs by accepting this case on a contingent fee basis. The requested

fee is within the typical range for awards in common fund cases, and society has a clear stake in rewarding attorneys as an incentive to take on complicated, risky, contingent fee cases.

The value of Plaintiffs' legal services on an hourly basis is established by their lodestar cross-check. See Johnson v. Midwest Log. Sys., No. 2:11-CV-1061, 2013 U.S. Dist. LEXIS 74201, at *16 (S.D. Ohio May 25, 2013). "In contrast to employing the lodestar method in full, when using a lodestar cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court." Id. at *17 (internal quotations and citations omitted). Plaintiffs spent approximately 13,000 hours in preparation for this case, producing a cumulative lodestar value of \$5,980,680.50. (ECF No. 287-1.) Each firm comprising Plaintiffs' counsel submitted an accounting of the hourly rate and hours spent for each attorney who worked on the case. (ECF No. 287-6; ECF No. 287-7; ECF No. 287-8.) The hours spent and the rates applied are reasonable. The resulting lodestar multiplier is approximately 3.1. "Most courts agree that the typical lodestar multiplier in a large post-PSLRA securities class action[] ranges from 1.3 to 4.5." In re Cardinal Health Inc. Sec. Litigs., 528 F. Supp. 2d 752, 767 (S.D. Ohio 2007) (collecting cases). The lodestar cross-check multiplier is within the reasonable range.

The most important factor in determining the reasonableness

of the requested attorney's fees in this case is the value of the benefit conferred on the Class. This is a complex case, and the Plaintiffs' likelihood of success on the merits is in question. Nevertheless, Plaintiffs' counsel was able to negotiate a multimillion-dollar settlement on a novel theory of recovery to be distributed pro rata to all Class Members. Plaintiffs' counsel created substantial value for the Class Members. Had the litigation proceeded on an accepted damages valuation theory, the total recovery was projected to be from one third to as little as one sixth of the proposed settlement fund. If the case had proceeded to trial, the Class Members faced a substantial risk of no recovery at all.

The Plaintiffs also seek payment of expenses from the common fund totaling \$380,744.14. (ECF No. 287.) The Plaintiffs state that approximately \$277,000.00 represents payments to experts, approximately \$17,000.00 represents the costs of mediation, and the remainder includes photocopying, travel, and lodging. (Id.) The Plaintiffs have submitted itemized lists of all expenses. (ECF No. 287-6; ECF No. 287-7; ECF No. 287-8.) No objections have been raised to the Plaintiffs' expenses. After review of the Plaintiffs' submissions, the Court finds that the requested expenses are reasonable and should be paid from the common fund.

The Plaintiffs' requested attorney's fees and expenses are

reasonable under the unique circumstances of this case. The common fund method is the more appropriate method of addressing attorney's fees. All of the Bowling factors weigh in favor of the requested fee of 30% of the fund, \$18,600,000.00.

Plaintiffs' Motion for Attorney's Fees and Expenses is GRANTED.

III. Dismissal of Claims and Release

Except as to any individual claim of those persons who have been excluded from the Class, this action, together with all claims asserted in it, is dismissed with prejudice by the Plaintiffs and the other members of the Class against each and all of the Defendants. The Parties shall bear their own costs, except as otherwise provided above or in the joint Stipulation and Agreement of Settlement and the Plan of Allocation.

After review of the record, including the Complaint and the dispositive motions, the Court concludes that, during the course of this action, the parties and their respective counsel have complied at all times with the requirements of Rule 11.

The Release submitted by the parties as part of Exhibit B to the joint Stipulation and Agreement of Settlement, (ECF No. 260-5), is APPROVED and ADOPTED by the Court.

IV. Continuing Jurisdiction

The Court retains jurisdiction for purposes of effecting the Settlement, including all matters relating to the administration, consummation, enforcement, and interpretation of

the joint Stipulation and Agreement of Settlement and the Plan of Allocation.

V. Conclusion

For the foregoing reasons, Plaintiffs' proposed Class is CERTIFIED. Plaintiffs' Motion for Final Approval is GRANTED. Plaintiffs' Motion for Attorney's Fees and Expenses is GRANTED. The parties' Stipulation and Agreement of Settlement and their Plan of Allocation are APPROVED. The Class settlement fund is approved in the amount of \$62,000,000.00. Attorney's fees are approved in the amount of \$18,600,000.00. Expenses are approved in the amount of \$380,744.14. All claims in this matter are DISMISSED except as provided above.

So ordered this 5th day of August, 2013.

s/ Samuel H. Mays, Jr._____
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE

TAB 17

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: RITE AID CORPORATION : MDL Docket No. 1360
SECURITIES LITIGATION :
: MASTER FILE NO. 99-1349
: _____
:
This Document Relates To: :
ALL ACTIONS : CLASS ACTION

Dalzell, J.

March 24, 2005

MEMORANDUM

Nearly two years ago, we awarded to class counsel for plaintiffs attorneys fees equal to twenty-five percent of the \$126,641,315.00 Settlement Fund that their "extraordinarily deft and efficient" representation made possible. See In re Rite Aid Sec. Litig., 269 F. Supp. 2d 603, 611 (E.D. Pa. 2003) [hereinafter Rite Aid II]. Although we recognized that the award was indeed "handsome," we nevertheless found that it was "in all respects reasonable under the Gunter-Prudential factors. Id. at 611; see also Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000); In re Prudential Ins. Co. Sales Practice Litig., 148 F.3d 283, 336-40 (3d Cir. 1998).

To confirm the reasonableness of the twenty-five percent award, we performed a lodestar cross-check. See generally In re Cendant Corp. PRIDES Litig., 243 F.3d 722, 742 (3d Cir. 2001) (exemplifying the cross-check analysis) [hereinafter Cendant PRIDES]. Consistent with our reading of Cendant PRIDES, we used a "top hourly rate that blends the rates of the senior-most lawyers at the firms of co-lead counsel" to arrive at a lodestar multiplier of 4.07. Rite Aid II, 269 F.

Supp. 2d at 611 n.10. Similar multipliers appeared to be "fairly common," so the multiplier did not affect our conclusion that a twenty-five percent award was reasonable. See id. at 611. Walter Kaufmann, one of the two objectors to the motion of plaintiffs' counsel for attorneys' fees, took issue with our decision and appealed.

"In all respects but one," the Court of Appeals held that Rite Aid II's analysis was "exemplary." In re Rite Aid Sec. Litig., 396 F.3d 294, 296 (3d Cir. 2005) [hereinafter Rite Aid III]. The court recognized that the "percentage-of-recovery method is generally favored in common fund cases" and noted that district courts should place "primary reliance on the percentage of common fund method." Id. at 300, 307. Moreover, it held that we did not abuse our discretion in applying the Gunter-Prudential factors. Id. at 302-305.

The only error that the Court of Appeals found in Rite Aid II was our use of "the billing rates of only the most senior partners of plaintiffs' co-lead counsel" in calculating the lodestar multiplier. Id. at 306. Notably, the court did not hold that we erred in approving a fee award with a multiplier of 4.07. In fact, it carefully emphasized that multipliers "need not fall within any pre-defined range, provided that the District Court's analysis justifies the award." Id. at 307. Suggesting that "[c]onsideration of multipliers used in comparable cases may be appropriate," id. at 307 n.17, the Court of Appeals vacated our decision and remanded the case for further proceedings

consistent with its opinion, id. at 308. In short, we understand Rite Aid III to require us to reconsider the reasonableness of a twenty-five percent fee award after performing a lodestar cross-check consistent with its refinement of Cendant PRIDES. Id. at 306-07.

The lodestar multiplier equals the proposed fee award divided by the product of the total hours worked by class counsel and "blended billing rates that approximate the fee structure of all the attorneys who worked on the matter."¹ Id. at 306. Here, plaintiffs' counsel has proposed a fee award of twenty-five percent of the \$126,641,315.00 Settlement Fund, or \$31,660,328.75. Although the Court of Appeals generally permits the use of blended rates to approximate the mathematical precision of a traditional lodestar calculation, see supra note 1, plaintiffs' counsel already has undertaken that burdensome task and computed the loadstar as \$4,549,824.75.² See Pls.'

¹ We read the Court of Appeals's approval of "blended rates" in conjunction with its recognizing that the "lodestar cross-check calculation need entail neither mathematical precision nor bean-counting." Rite Aid III, 396 F.3d at 306. A traditional lodestar calculation would require the court to monetize the value of the work that each lawyer expends on a case (by multiplying the number of hours that she worked by her hourly rate) and then to arrive at the "lodestar" by summing the values of each lawyer's contribution. This sort of "bean-counting" becomes unnecessary if the court approximates the lodestar by simply multiplying an appropriate "blended rate" and the total number of hours worked by all class counsel. Our error in Rite Aid II occurred in "blending" only the rates of the most senior attorneys when we should have "blended" the rates of all attorneys.

² No one has challenged the accuracy of this calculation. Indeed, any objection would be pointless because we need not

Compendium of Law Firm Affs. Because we have at our disposal this relatively precise lodestar calculus, we find it unnecessary to attempt another calculus that could only yield a less precise approximation. Based on the \$31,660,328.75 proposed fee award and the \$4,549,824.75 lodestar, we conclude that plaintiffs' counsel requests approval of a fee award with a 6.96 multiplier.

Having computed the multiplier, we must now consider whether the twenty-five percent award is unreasonably large and must be reduced. Plaintiffs' counsel and the objectors³ cite a bevy of allegedly "comparable" cases, but the facts of this case, where counsel obtained a nine-figure settlement of a securities class action mostly from an auditor, are undeniably unique. As plaintiffs' counsel stated at the hearing, auditors are rarely defendants in securities class actions; no more than six percent of the securities class actions filed in 2003 and 2004 even named auditors as defendants.⁴ Among this rare breed, this case appears to involve the largest class recovery on record against an auditor in a 10b-5 action, a fact no one at the hearing

validate the calculation with "mathematical precision."

³ Walter Kaufmann filed a formal brief in opposition to plaintiffs' counsel's renewed motion for award of attorneys' fees (docket entry # 196), and the Pennsylvania Public School Employees' Retirement System and the New York State Teachers' Retirement System filed informal letter briefs. Though we have considered all of these documents, only Kaufmann's submission is part of the record because only he filed it with the Clerk.

⁴ Because auditors can always claim that they relied in good faith on the representations of a corporation's officers, it seems likely that many of the 10b-5 claims initially asserted against auditors are dismissed without need for trial.

contested. Moreover, plaintiffs' counsel obtained these unprecedented results without relying on the fruits of any official investigation.

We have twice before discussed the uniqueness of this case at length, see Rite Aid II; see also In re Rite Aid Sec. Litig., 146 F. Supp. 2d 706, 734-37 (E.D. Pa. 2001) [hereinafter Rite Aid I], and we need not repeat that exposition again here. Suffice it to say that, through the exercise of their considerable skill, plaintiffs' counsel obtained a historic recovery for the class in a rare and complex kind of case where victory at trial would have been, at best, remote and uncertain.⁵

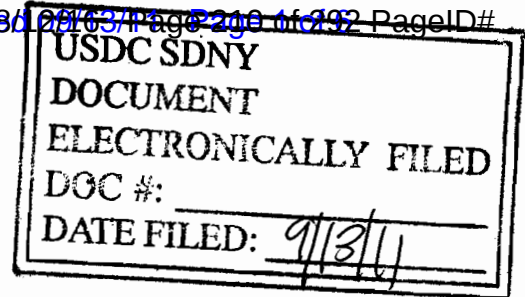
In conclusion, our recalculation of the multiplier does not alter our original conclusion. Upon consideration of the entire record, including evidence that the class members recovered only a fraction of their losses, we conclude that it is reasonable to award attorneys' fees equal to twenty-five percent of the Settlement Fund.

An appropriate Order follows.

⁵ It is again worth stressing that the settlement here also involved these defendants' withdrawal of their appeal of Rite Aid I. Rite Aid I involved a host of complex legal issues, including many of first impression, and thus this second settlement assured the finality of the first. Though not subject to dollar valuation, this aspect of the settlement should not be overlooked or minimized.

TAB 18

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**



IN RE: SATYAM COMPUTER SERVICES LTD.
SECURITIES LITIGATION

No.: 09-MD-2027-BSJ

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

This matter came on for hearing on September 8, 2011 (the "Settlement Hearing") on the motion of Lead Counsel to determine, among other things, whether and in what amount to award Lead Counsel in the above-captioned consolidated securities class action (the "Action") fees and reimbursement of expenses.

The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notices of the Settlement Hearing substantially in the form approved by the Court were mailed to all Class Members who or which could be identified with reasonable effort, except those persons or entities excluded from the definition of the Class, and that summary notices of the hearing substantially in the form approved by the Court were published in *The Wall Street Journal*, *Investor's Business Daily* and *The Financial Times* and transmitted over *Business Wire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order Awarding Attorneys' Fees and Expenses incorporates by reference the definitions in the Stipulations and Agreements of Settlement (the "Settlement Stipulations") and all

terms used herein shall, with respect to the respective Settlement Stipulations, have the same meanings as set forth in the applicable Settlement Stipulations.¹

2. The Court has jurisdiction to enter this Order Awarding Attorneys' Fees and Expenses, and over the subject matter of the Action and all parties to the Action, including all Class Members.

3. Notice of Lead Counsel's application for attorneys' fees and reimbursement of expenses was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the motion for attorneys' fees and expenses constituted due, adequate, and sufficient notice to all persons or entities entitled to receive notice of the motion and satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4, et seq.) (the "PSLRA"), and all other applicable law and rules.

4. Lead Counsel are hereby awarded attorneys' fees in the amount of 17% of the total Settlement Funds, as well as 17% of any additional Settlement Funds recovered by Satyam from the PwC Entities, net of any taxes withheld from the Initial Escrow Accounts and ultimately paid pursuant to Indian tax law, and \$1,027,076.94 in reimbursement of litigation expenses advanced or incurred by Lead Counsel collectively while prosecuting this Action (which expenses shall be paid from the Settlement Funds) with interest on such fees and expenses at the same rate as earned by the Settlement Funds from the dates the Settlement Funds were funded to the date of payment, which sums the Court finds to be fair and reasonable. The foregoing award of Attorneys' Fees and

¹ The Settlement Stipulations are: the Stipulation and Agreement of Settlement with Defendant Satyam Computer Services Ltd., dated February 16, 2011 (the "Satyam Stipulation") and the Stipulation and Agreement of Settlement between Lead Plaintiffs and the PwC Entities, dated April 27, 2011 (the "PwC Entities Stipulation") entered into by and among Lead Plaintiffs and the Settling Defendants (together, the "Settlement Stipulations").

Expenses shall be payable immediately in accordance with the terms set forth in ¶¶ 19 and 16, respectively of the Satyam Stipulation and the PwC Entities Stipulation. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a manner which, in the opinion of Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution and settlement of the Action.

5. Also in accordance with the terms set forth in ¶¶ 20 and 17, respectively of the Satyam Stipulation and the PwC Entities Stipulation, Lead Counsel who seek to be paid their share of the attorney fee and expense award prior to the Effective Date shall be jointly and severally obligated to make appropriate refunds or repayments of attorneys' fees and expenses and any interest thereon paid to Lead Counsel to the Settlement Funds or to the Settling Defendants who contributed the Settlement Funds in direct proportion to their contributions to the Settlement Funds, as applicable, plus accrued interest at the same net rate as is earned by the Settlement Funds, if the Settlements are terminated pursuant to the terms of the Stipulations or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or litigation expenses is reduced or reversed by final non-appealable court order.

6. Class Representative the Public Employees' Retirement System of Mississippi is awarded \$14,400 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

7. Class Representative Mineworkers' Pension Scheme is awarded \$98,711 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

8. Class Representative SKAGEN AS is awarded \$59,000 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

9. Class Representative Sampension KP Livsforsikring A/S is awarded \$21,000 as reimbursement for its costs and expenses directly relating to its services in representing the Class.

10. Subclass Representative Brian F. Adams is awarded \$2,000 as reimbursement for his costs and expenses directly relating to his services in representing the Class and Subclass.

11. A litigation fund in the amount of \$1,000,000 from the Satyam Settlement Fund shall be established to fund the continued prosecution of the Action against the Non-Settling Defendants.

12. In making this award of attorneys' fees, and reimbursement of expenses to be paid from the Settlement Funds, the Court has considered and found that:

(a) The Settlements have created a total settlement amount of \$150.5 million in cash that is already on deposit and has been earning interest, and that numerous Class Members who submit acceptable Proofs of Claim will benefit from the Settlements created by the efforts of Lead Counsel;

(b) The fee sought by Lead Counsel has been reviewed and approved as fair and reasonable by the Court-appointed Lead Plaintiffs, sophisticated institutional investors that were substantially involved in all aspects of the prosecution and resolution of the Action;

(c) To date, over 208,000 copies of the Notices were disseminated to putative Class Members stating that Lead Counsel were moving for attorneys' fees not to exceed 17% of proposed Settlements and reimbursement of expenses incurred in connection with the prosecution of this Action. Only one objection to the terms of the Settlement and the fees and expenses requested by Lead Counsel contained in the Notice was received, although it was untimely and not filed with the Court as required by the Preliminary Approval Orders. The objector has not proven that he is a member of the Class, nor does he have standing; even if he did, his objection has been considered and overruled;

(d) Lead Counsel have conducted the litigation and achieved the Settlements with skill, perseverance and diligent advocacy;

(e) The Action involves complex factual and legal issues and, in the absence of settlement, would involve lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(f) Had the Settlements not been achieved, there would remain a significant risk that Lead Plaintiffs and the other members of the Class may have recovered less or nothing from the Settling Defendants; and

(g) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement Funds are fair and reasonable and consistent with awards in similar cases.


13. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgments entered with respect to the Settlements.

14. Continuing jurisdiction is hereby retained over the parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Settlement Stipulations and this Order, including any further application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Class.

15. In the event that any of the Settlements are terminated or do not become Final or the Effective Date does not occur in accordance with the terms of the applicable Settlement Stipulation(s), this Order, except for ¶ 5 above, shall be rendered null and void to the extent provided by the applicable Settlement Stipulation(s) and shall be vacated in accordance with the terms of the applicable Settlement Stipulation(s).

16. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

Dated: New York, New York
September 13, 2011


Honorable Barbara S. Jones
UNITED STATES DISTRICT JUDGE

TAB 19

substantially in the form approved by the Court was mailed to all persons or entities who purchased or otherwise acquired i2 common stock between March 22, 2000 and July 21, 2003, inclusive (the "Settlement Class Period"), and who were damaged thereby (the "Settlement Class"), or were current holders of i2 common stock except those persons or entities excluded from the definition of the Settlement Class, as shown by the records of i2's transfer agent, at the respective addresses set forth in such records, and that a summary notice of the hearing substantially in the form approved by the Court was published in the national edition of *The Wall Street Journal* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested; and all capitalized terms used herein having the meanings as set forth and defined in the Stipulation.

IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Lead Plaintiffs, all Settlement Class Members and the Settling Defendants.
2. The Court finds that for the purposes of the Settlement, the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the Class Representatives are typical of the claims of the Settlement Class they seek to represent; (d) the Class Representatives have and will fairly and adequately represent the interests of the Settlement Class; (e) the questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and for the purposes of the Settlement this Court hereby finally certifies this action as a class action on behalf of all persons or entities who purchased or otherwise acquired i2 common stock between March 22, 2000 and July 21, 2003, inclusive, and who were damaged thereby. Excluded from the Settlement Class are the Defendants in this action, members of the immediate families (parents, spouses, siblings, and children) of each of the Defendants, any person, firm, trust, corporation, officer, director or other individual or entity in which any Defendant has a controlling interest or which is related to or affiliated with any of the Defendants, and the legal representatives, heirs, successors in interest or assigns of any such excluded party. Also excluded from the Settlement Class are the putative Class Members listed on Exhibit "1" annexed hereto, who have excluded themselves from the Settlement Class.

4. Plaintiffs assert claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 against i2 Technologies, Inc. and its present and former officers, Sanjiv S. Sidhu, Gregory A. Brady and William M. Beecher. The Complaint alleges that Settling Defendants made materially false and misleading statements regarding the difficulties and delays associated with the implementation and integration of i2's software products and about i2's financial condition and future earnings. For purposes of the Settlement, the Court certifies these claims for class treatment.

5. Having considered the factors described in Rule 23(g)(1) of the Federal Rules of Civil Procedure, the Court hereby appoints the law firms of Milberg Weiss Bershad & Schulman LLP, Johnson & Perkinson and Girard Gibbs & De Bartolomeo LLP as class counsel, and the law firm of Stanley, Mandel & Iola, L.L.P. as liaison counsel for the plaintiffs.

6. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Settlement Class Members and those current holders of i2 common

stock who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rules 23 and 23.1 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(7) as amended by the Private Securities Litigation Reform Act of 1995 (“PSLRA”), due process and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

7. The Settlement is approved as fair, reasonable and adequate, and the Settlement Class Members, current holders of i2 common stock and the parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation.

8. The Complaint, which the Court finds was filed on a good faith basis in accordance with the PSLRA and Rule 11 of the Federal Rules of Civil Procedure based upon all publicly available information, is hereby dismissed with prejudice and without costs, except as provided in the Stipulation, as against the Settling Defendants only.

9. Members of the Settlement Class and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any and all Settled Claims against any and all of the Released Parties. “Released Parties” does not include Non-Settling Defendant Arthur Andersen LLP or any of its partners, principals, officers, directors, or employees, its predecessors, successors, and assigns, and any divisions or constituents, or constituent entities. The Settled Claims are hereby compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

10. The Settling Defendants and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any and all Settled Defendants' Claims against any of the Lead Plaintiffs, Settlement Class Members or their attorneys. The Settled Defendants' Claims of all the Released Parties are hereby compromised, settled, released, discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

11. The Released Parties are hereby discharged from all claims for indemnity and contribution by any person or entity, whether arising under state, federal or common law, based upon, arising out of, relating to or in connection with the Settled Claims of the Settlement Class or any Settlement Class Member, other than claims for indemnity asserted against a Released Party by a person or entity whose liability to the Settlement Class has been extinguished pursuant to the Stipulation of Settlement and this Order and Final Judgment. Accordingly, the Court hereby bars all claims for indemnity and/or contribution by or against the Released Parties based upon, arising out of, relating to or in connection with the Settled Claims of the Settlement Class or any Settlement Class Member; provided, however, that this bar order does not prevent any person or entity whose liability to the Class has been extinguished pursuant to the Stipulation of Settlement and this Order and Final Judgment from asserting a claim for indemnity against a Released Party.

12. Neither this Order and Final Judgment, the Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against the Settling Defendants or against the Lead Plaintiffs or the Settlement Class as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Settling Defendants or by any of the Lead

Plaintiffs or the Settlement Class with respect to the truth of any fact alleged by Lead Plaintiffs or the validity of any claim that had been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Settling Defendants;

(b) offered or received against the Settling Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Settling Defendant, or against the Lead Plaintiffs and the Settlement Class as evidence of any infirmity in the claims of Lead Plaintiffs and the Settlement Class;

(c) offered or received against the Settling Defendants or against the Lead Plaintiffs or the Settlement Class as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the parties to the Stipulation, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; provided, however, that Settling Defendants may refer to the Stipulation to effectuate the liability protection granted them thereunder;

(d) construed against the Settling Defendants or the Lead Plaintiffs and the Settlement Class as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

(e) construed as or received in evidence as an admission, concession or presumption against Lead Plaintiffs or the Settlement Class or any of them that any of their claims are without merit or that damages recoverable under the Complaint would not have exceeded the Settlement Fund.

13. The Plan of Allocation is approved as fair and reasonable, and the Claims Administrator is directed to administer the Stipulation in accordance with its terms and provisions.

14. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

15. Plaintiffs' Counsel are hereby awarded 25 % [~~25% requested~~] of the Gross Settlement Fund in fees, which sum the Court finds to be fair and reasonable, and \$ 1,196,015.⁶⁵ [~~\$1,196,015.65 requested~~] in reimbursement of expenses, which expenses shall be paid to Plaintiffs' Co-Lead Counsel from the Settlement Fund with interest from the date such Settlement Fund was funded to the date of payment at the same net rate that the Settlement Fund earns. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a fashion which, in the opinion of Plaintiffs' Co-Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Action.

16. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Gross Settlement Fund, the Court has considered and found that:

(a) the settlement has created a fund of \$84,850,000.00 in cash that is already on deposit, plus interest thereon and that numerous Settlement Class Members who file acceptable proofs of claim will benefit from the Settlement created by Plaintiffs' Counsel;

(b) i2's adoption of substantial corporate governance reforms proposed and negotiated by Plaintiffs' Counsel;

(c) A total of 454,417 copies of the Settlement Notice were disseminated to putative Class Members indicating that Plaintiffs' Co-Lead Counsel were moving for attorneys' fees in the amount of up to one-third (33 1/3%) of the Gross Settlement Fund and for reimbursement of expenses in an amount of approximately \$1,500,000 and certain objections

were filed against the terms of the proposed Settlement or the maximum fees and expenses requested which could be requested by Plaintiffs' Counsel contained in the Settlement Notice and Plaintiffs' Counsel filed a supplemental brief responding to all such objections;

(d) Plaintiffs' Co-Lead Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(e) The action involves complex factual and legal issues and was actively prosecuted over three years and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(f) Had Plaintiffs' Co-Lead Counsel not achieved the Settlement there would remain a significant risk that the Settlement Class may have recovered less or nothing from the Settling Defendants;

(g) Plaintiffs' Counsel have devoted over 14,800 hours, with a lodestar value of \$6,669,655.13, to achieve the Settlement; and

(h) The amounts of attorneys' fees awarded and expenses reimbursed from the Settlement Fund are consistent with awards in similar cases.


17. Exclusive jurisdiction is hereby retained over the parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Settlement Class.

18. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

19. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54 (b) of the Federal Rules of Civil Procedure.

20. The Clerk of the Court is directed to enter this order in the files of each of the above-captioned civil actions.

SIGNED this 1st day of October, 2004


THE HONORABLE BAREFOOT SANDERS
UNITED STATES SENIOR DISTRICT JUDGE

TAB 20

ORIGINAL

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

MAY 26 2005

CLERK, U.S. DISTRICT COURT
By _____ Deputy

ALLEN V. SCHEINER, on Behalf of
Himself and All Others Similarly Situated,
Plaintiffs,

V.

**i2 TECHNOLOGIES, INC., SANJIV
S. SIDHU, GREGORY A. BRADY,
WILLIAM M. BEECHER and
ARTHUR ANDERSEN LLP,**

Defendants.

Civil No. 3:01-CV-418-H
(Consolidated)

ORDER AND FINAL JUDGMENT

On the 26th day of May, 2005, a hearing having been held before this Court to determine: whether the terms and conditions of the Stipulation and Agreement of Settlement with Arthur Andersen LLP dated **February 4, 2005** (the “Andersen Stipulation”) are fair, reasonable and adequate for the settlement of all claims asserted by the Settlement Class against Arthur Andersen LLP (“Andersen”) in the Third Amended Consolidated Complaint for Violation of the Federal Securities Laws (the “Complaint”) now pending in this Court under the above caption, including the release of Andersen and the Andersen Released Parties, and should be approved, whether judgment should be entered dismissing the Complaint on the merits and with prejudice in favor of Andersen only and as against all persons or entities who are members of the Settlement Class herein who have not requested exclusion therefrom; whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds from the Settlement with Andersen among the members of the Settlement Class; and whether and in what amount to award Plaintiffs’ Counsel fees and reimbursement of expenses with respect to the

Settlement with Andersen. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice substantially in the form approved by the Court was mailed to all persons or entities reasonably identifiable, who purchased or otherwise acquired the common stock of i2 Technologies, Inc. ("i2") between March 22, 2000 and July 21, 2003, inclusive (the "Settlement Class Period"), except those persons or entities excluded from the definition of the Settlement Class or who previously excluded themselves from the Settlement Class, as shown by the records compiled by the Claims Administrator in connection with the previous mailings of a notice of pendency of class action and a notice of settlement with the i2 Defendants, at the respective addresses set forth in such records, and that a summary notice of the hearing substantially in the form approved by the Court was published in the national edition of The Wall Street Journal pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested; and all capitalized terms used herein having the meanings as set forth and defined in the Andersen Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Lead Plaintiffs, all Settlement Class Members, and Andersen.
2. The Court finds that the prerequisites for a class action under Federal Rules of Civil Procedure 23 (a) and (b)(3) have been satisfied in that: the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; there are questions of law and fact common to the Settlement Class; the claims of the Settlement Class Representatives are typical of the claims of the Settlement Class they seek to represent; the

Class Representatives have and will fairly and adequately represent the interests of the Settlement Class; the questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure this Court hereby finally certifies this action as a class action as against Andersen on behalf of all persons or entities who purchased or otherwise acquired the common stock of i2 Technologies, Inc. between March 22, 2000 and July 21, 2003, inclusive, and who were damaged thereby. Excluded from the Settlement Class are the defendants in this action; members of the immediate families (parents, spouses, siblings and children) of each of the individual defendants; any person, firm, trust, corporation, officer, director or other individual or entity in which any defendant has a controlling interest or which is related to or affiliated with any of the defendants; and the legal representatives, heirs, successors in interest or assigns of any such excluded party. Also excluded from the Settlement Class are the putative Class Members listed on Exhibit 1 annexed hereto, who have excluded themselves from the Settlement Class with respect to the Settlement with Andersen. Also excluded from the Settlement Class are the putative Settlement Class Members listed on Exhibit 2 annexed hereto, who had previously excluded themselves in accordance with the requirements of the notice of pendency or the Notice of Settlement with the i2 Defendants.

4. Lead Plaintiffs assert claims under Section 10(b) of the Securities Exchange Act of 1934 against Andersen. The Complaint alleges Andersen, which served as i2's auditor for the

years ended December 31, 1999, December 31, 2000, and December 31, 2001, made materially false and misleading statements regarding i2's financial condition by issuing unqualified audit reports for the years 1999, 2000, and 2001 stating that i2's financial statements conformed to Generally Accepted Accounting Principles ("GAAP") and that Andersen performed audits of those financial statements in accordance with Generally Accepted Auditing Standards ("GAAS"). For purposes of the Settlement, the Court certifies these claims for class treatment.

5. Having considered the factors described in Rule 23(g)(1) of the Federal Rules of Civil Procedure, the Court hereby confirms the appointment of the law firms of Milberg Weiss Bershad & Schulman LLP, Johnson & Perkinson, and Girard Gibbs & De Bartolomeo LLP as class counsel, and the law firm of Stanley Mandel & Iola, LLP as liaison counsel for the plaintiffs.

6. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Settlement Class Members and those current holders of i2 common stock who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(7) as amended by the Private Securities Litigation Reform Act of 1995 ("PSLRA"), due process and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

7. The Settlement with Andersen is approved as fair, reasonable and adequate, and the Settlement Class Members and the parties are directed to consummate the Settlement in

accordance with the terms and provisions of the Andersen Stipulation.

8. The Complaint, which the Court finds was filed on a good faith basis in accordance with the PSLRA and Rule 11 of the Federal Rules of Civil Procedure based upon all publicly available information, is hereby dismissed with prejudice and without costs, except as provided in the Andersen Stipulation, as against Andersen.

9. Members of the Settlement Class, and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any and all Settled Claims against any and all of the Andersen Released Parties. "Andersen Released Parties" does not include any and all of the i2 Defendants, their past or present subsidiaries, parents, successors and predecessors, officers, directors, agents, employees and attorneys, and any person, firm, trust, corporation, officer, director or other individual or entity in which any i2 Defendant has a controlling interest or which is related to or affiliated with any of the i2 Defendants, and the legal representatives, heirs, successors in interest or assigns of any such party. The Settled Claims are hereby compromised, settled, released, discharged and dismissed as against the Andersen Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

10. Andersen and its successors and assigns are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any and all Settled Defendant's Claims against any of the Lead Plaintiffs or Settlement Class Members. The Settled Defendant's Claims of all the Andersen Released Parties are hereby compromised, settled, released, discharged and dismissed on the merits and with prejudice by

virtue of the proceedings herein and this Order and Final Judgment.

11. The Andersen Released Parties are hereby discharged from all claims for indemnity and contribution by any person or entity, whether arising under state, federal or common law, based upon, arising out of, relating to or in connection with the Settled Claims of the Settlement Class or any Settlement Class Member, other than claims for indemnity asserted against an Andersen Released Party by a person or entity whose liability to the Settlement Class has been extinguished pursuant to the Andersen Stipulation and this Final Order and Judgment. Accordingly, the Court hereby bars all claims for indemnity and/or contribution by or against the Andersen Released Parties based upon, arising out of, relating to or in connection with the Settled Claims of the Settlement Class or any Settlement Class Member; provided, however, that this bar order does not prevent any person or entity whose liability to the Class has been extinguished pursuant to the Andersen Stipulation and this Final Order and Judgment from asserting a claim for indemnity against a Released Party.

12. Neither this Order and Final Judgment, the Andersen Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against Andersen as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by Andersen with respect to the truth of any fact alleged by any of the plaintiffs or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of Andersen;

(b) offered or received against Andersen as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by Andersen;

(c) offered or received against Andersen as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against Andersen, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Andersen Stipulation; provided, however, that if this Andersen Stipulation is approved by the Court, Andersen may refer to it to effectuate the liability protection granted them hereunder;

(d) construed as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and

(e) construed as or received in evidence as an admission, concession or presumption against Lead Plaintiffs or any of the Settlement Class Members that any of their claims are without merit, or that any defenses asserted by Andersen have any merit, or that damages recoverable under the Complaint would not have exceeded the Gross Andersen Settlement Fund.

13. The Plan of Allocation approved in the prior settlement with the i2 Defendants is approved as a fair and reasonable method to allocate the Net Settlement proceeds in the Settlement with Andersen, and the Claims Administrator is directed to administer the Settlement in accordance with its terms and provisions.

14. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

15. Plaintiffs' Counsel are hereby awarded **25%** of the Gross Andersen Settlement Fund in fees, which sum the Court finds to be fair and reasonable, and **\$54,740.10** in reimbursement of expenses, which expenses shall be paid to Plaintiffs' Co-Lead Counsel from the Andersen Settlement Fund with interest from the date such Settlement Fund was funded to the date of payment at the same net rate that the Andersen Settlement Fund earns. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a fashion which, in the opinion of Plaintiffs' Co-Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Action.

16. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Gross Andersen Settlement Fund, the Court has considered and found that:

(a) the settlement has created a fund of **\$2,900,000.00** in cash that is already on deposit, plus interest thereon, and that numerous Settlement Class Members who file acceptable proofs of claim will benefit from the Settlement created by Plaintiffs' Counsel;

(b) **522,749** copies of the Settlement Notice were disseminated to putative Settlement Class Members indicating that Plaintiffs' Co-Lead Counsel were moving for attorneys' fees in the amount of up to **25%** of the Gross Andersen Settlement Fund and for reimbursement of expenses in an amount of approximately **\$100,000 plus interest** and no objections were filed against the terms of the proposed Settlement or the ceiling on the fees and expenses requested by Plaintiffs' Counsel contained in the Settlement Notice;

(c) Plaintiffs' Co-Lead Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(d) The action involves complex factual and legal issues and was actively prosecuted by Plaintiffs' Co-Lead Counsel for over three years and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(e) Had Plaintiffs' Co-Lead Counsel not achieved the Settlement there would remain a significant risk that the Settlement Class may have recovered less or nothing from Andersen;

(f) Plaintiffs' Co-Lead Counsel have devoted substantial amounts of time and effort pursuing this litigation, including substantial amounts of time with respect to the pursuit of claims against Andersen; and

(g) The amounts of attorneys' fees awarded and expenses reimbursed from the Andersen Settlement Fund are consistent with the award in connection with the settlement with the i2 Defendants and with awards in similar cases.

17. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Andersen Stipulation and this Order and Final Judgment, the allocation by Plaintiffs' Co-Lead Counsel of attorneys' fees and expenses among Plaintiffs' Counsel, and any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Settlement Class.

18. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Andersen Stipulation.

19. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54 (b) of the Federal Rules of Civil Procedure.

20. Any residual portion of the Settlement Fund, after payment of unpaid administration costs, attorney's fees and expenses, and distributions, shall be distributed to a 501(c)(3) organization approved by the Court.

21. The Clerk of the Court is directed to enter this order in this Consolidated civil action.

SIGNED this 26th day of May, 2005


THE HONORABLE BAREFOOT SANDERS
UNITED STATES SENIOR DISTRICT JUDGE

EXHIBIT 1

**List of Persons and Entities Excluded from the Settlement Class in
the Settlement with Andersen in Scheiner v. i2 Technologies, Inc., et al.**

The following persons and entities have properly excluded themselves from the
Settlement Class in the Settlement with Andersen:

IN RESPONSE TO THE ANDERSEN SETTLEMENT NOTICE (timely)	
Richard K. Hose 10335 Stonydale Dr. Cupertino, California 95014	Richard K. Hose & Janet K. Hose Hose Family Trust 10335 Stonydale Dr. Cupertino, California 95014
Terry Hillis 533 Jordan Street Nevada City, California 95959	E. D. Aaronson 12000 N. 90 th Street, Apartment 2130 Scottsdale, Arizona 85260
Heidi Miller and Anthony DiFrancisco 235 West 70 th Street, Apartment 6-H New York, New York 10023	Gerard C. Mehr Philomena M. Mehr 1960 Bahama Avenue Fort Myers, Florida 33905-2039
Thomas A. Townsend 437 Trail View Ln. Garland, Texas 75043-5629	William H. Engler 675 N. Eagle street Naperville, Illinois 60563
William E. Nutter and Amelia Maiuri Nutter 334 E. Schrock Road Westerville, Ohio 43081	Carole Ann King and Philip J. King 1380 Taurus Court Merritt Island, Florida 32953-3133
Robert H. McClellan 800 Castlebridge Court Monkton, Maryland 21111	Jeffrey Cohan 581 highland Avenue Ridgewood, New Jersey 07450
Alfred and Beverly Koffler 11865 Dunbar Ct West Palm Beach, Florida 33412	John M. Ballantyne 4432 Far Hill Dr. Bloomfield Hills, Michigan 48304
BPF Merrill Lynch c/o Mellon 525 William Penn Place Room 3418 Pittsburgh, Pennsylvania 15259	Volker Brandt, MD 2860 Hideaway Road Fairfax, Virginia 22031

IN RESPONSE TO THE ANDERSEN SETTLEMENT NOTICE (late, but accepted by the Court)	
MLPF&S Cust FPO Francis P. Weimer, IRA FBO Francis P. Weimer 10 Bittersweet Lane Orchard Park, New York 14127 - and - Linda Weimer 10 Bittersweet Lane Orchard Park, New York 14127	Jiten Dihora 4521 Randall Drive Hamilton, Ohio 45011
Joseph Levin 2355 – 157 th Place SE Bellevue, Washington 98008	

EXHIBIT 2

**List of Persons and Entities Previously Excluded from the Settlement Class in
Scheiner v. i2 Technologies, Inc., et al.**

The following persons and entities have properly excluded themselves from the Settlement Class:

IN RESPONSE TO THE SETTLEMENT NOTICE WITH i2 DEFENDANTS (timely)	
Sammy Price 26 Forest Drive Roswell, New Mexico 88203	Thomas A. Townsend 437 Trail View Ln. Garland, Texas 75043-5629
Kenneth Moskowitz 12 Hillside Court Huntington Bay, New York 11743	Richard K. Hose & Janet K. Hose Hose Family Trust 10335 Stonydale Dr. Cupertino, California 95014
Richard K. Hose 10335 Stonydale Dr. Cupertino, California 95014	Eric Anderson 178 Canyon Woods Rd Anaheim Hills, California 92807
Ronald W. Howard 1604 Dowling Drive Irving, Texas 75038	William E. Baldrige c/o William B. Federman, Esq. Federman & Sherwood 120 N. Robinson, Suite 2720 Oklahoma City, Oklahoma 73102 -and- 2926 Maple Avenue, Suite 200 Dallas, Texas 75201

1997 Scottsdale Mirage, Ltd. William E. Baldrige c/o William B. Federman, Esq. Federman & Sherwood 120 N. Robinson, Suite 2720 Oklahoma City, Oklahoma 73102 -and- 2926 Maple Avenue, Suite 200 Dallas, Texas 75201	1998 Kirkwood Landing, LLC William E. Baldrige c/o William B. Federman, Esq. Federman & Sherwood 120 N. Robinson, Suite 2720 Oklahoma City, Oklahoma 73102 -and- 2926 Maple Avenue, Suite 200 Dallas, Texas 75201
George Keritsis c/o Federman & Sherwood 120 N. Robinson, Suite 2720 Oklahoma City, Oklahoma 73102	SCC Dunhill Trust c/o Federman & Sherwood 120 N. Robinson, Suite 2720 Oklahoma City, Oklahoma 73102
Greek Orthodox Archdiocese Foundation c/o Federman & Sherwood 120 N. Robinson, Suite 2720 Oklahoma City, Oklahoma 73102	Vic Mahadevan c/o William B. Federman, Esq. Federman & Sherwood 120 N. Robinson, Suite 2720 Oklahoma City, Oklahoma 73102 -and- 2926 Maple Avenue, Suite 200 Dallas, Texas 75201
Yonique M. Portsmouth 1031 Horatio Ave Corona, California 92882	Stefan Kuhlmann Ringstr. 11 D-90559 Burgthann-Oberferrieden Germany
Christian Knabbe Taubenstr. 34 48268 Greven Germany	

IN RESPONSE TO THE SETTLEMENT NOTICE WITH i2 DEFENDANTS (late)	
MLPF&S Cust FPO Francis P. Weimer, IRA FBO Francis P. Weimer 10 Bittersweet Lane Orchard Park, New York 14127 - and - Linda Weimer 10 Bittersweet Lane Orchard Park, New York 14127	Jiten Dihora 4521 Randall Drive Hamilton, Ohio 45011
Joseph Levin 2355 – 157 th Place SE Bellevue, Washington 98008	

IN RESPONSE TO THE NOTICE OF PENDENCY (timely)	
BF Continuing Com Sup Fd Small Cap Equity c/o Mellon Trust/Boston Safe Deposit & Trust Co. 525 William Penn Place, Room 3418 Pittsburgh, Pennsylvania 15259	Massachusetts Bay Transit Authority Retirement Fund c/o Mellon Trust/Boston Safe Deposit & Trust Co. 525 William Penn Place, Room 3418 Pittsburgh, Pennsylvania 15259
Delaware Select Growth c/o Mellon Trust/Boston Safe Deposit & Trust Co. 525 William Penn Place, Room 3418 Pittsburgh, Pennsylvania 15259	John D. Lynch 14520 NE 40th Street, Apt. #318 Bellevue, Washington 98007-3307
Terry Hillis 533 Jordan Street Nevada City, California 95959	Yoshihide Miura 155 West 70th Street, 4-G New York, New York 10023
Marguerite M. Royston 209 Lake Sever Drive Winchester, Virginia 22603	Peter C. Hobbins Seepark Chamerstrasse 47 CH-6300 Zug

Betty L. Jeffcoat 5418 25 th Street Lubbock, Texas 79407-2142	Marilyn J. Miller 7230 Maplewood Drive Indianapolis, Indiana 46227
A.G. Edwards & Sons Custodian C/F C.E. Long & Sons 249 FBO Ovid G. Long Profit Sharing Plan 492 McNary Rd. Independence, Oregon 97351-9627	The Bank of New York Nominees Limited (Accounts 152100 & 152102) One Wall Street, 3rd Floor-A New York, New York Robin C S Smith, SIAff (Investment Administration Manager)
Robert F. & Sylvia A. Pierce 604 Idler Lane Greenville, Illinois 62246	Robert F. Pierce 604 Idler Lane Greenville, Illinois 62246 -and- Tina R. Gault 84 Gillette Field Close St. Charles, Missouri 63304 -and- Andrea M. Templeton 1209 Mt. Olympus Drive St. Peters, Missouri 63376
Margaret O. MacPherson 51993 Hwy 6 Glenwood Springs, Colorado 81601	Hugh H. MacPherson 51993 Hwy 6 Glenwood Springs, Colorado 81601
Kitti Poage 5606-84th Street Lubbock, Texas 79424	Jim & Audrey D. Barnard 2028 Statler Drive Carrollton, Texas 75007-5441
The Bank of New York Nominees Limited (Accounts 152100 & 152102) One Wall Street, 3rd Floor-A New York, New York Robin C S Smith, SIAff (Investment Administration Manager)	Mary M. Swanson 4000 Parkside Center Blvd., Apt 304 Dallas, Texas 75244
Alan C. Jirik 1 Buccaneer Court Fort Worth, Texas 76179-3255	Dinh V. Nguyen 504 Bluefield Ln. Fort Mill, South Carolina 29708
Michael Pucci 3341 Barker Avenue Bronx, New York 10467	Rainer Link D-65232 Taunussten Dresdener Strabe 38 Germany

Walter Fuhrmann Falkenstrabe 19 70597 Stuttgart Germany	Wm. T. (Deceased) & Arlene T. Tsatsos 2406 Nicklaus Drive Santa Maria, California 93455
Sivaram Hariharan 4024 Sapphire Cove Weston, Florida 33331	Gianni Zorzino Architectural Consultant Microsoft Corp. P.O. Box 52244 Dubai (U.A.E.)
Irene F. Wright 73 Hiauwatha Avenue Waltham, Massachusetts 02541-3247	

IN RESPONSE TO THE NOTICE OF PENDENCY (late, but accepted by the Court)	
Rolls-Royce & Bentley Pension Fund VA Limited 65 Buckingham Gate London SW1E 6AT England	Chester Bentley 3105 Pecan Lane Garland, Texas 75041
Martin Dipper Middle Earth 60 Sandy Lane Wokingham BERKS RG41 4ST United Kingdom	Martin Dipper Middle Earth 60 Sandy Lane Wokingham BERKS RG41 4ST United Kingdom
Paul C. Castanon 11/13 rue Pergolese 75116 Paris, France	George White P.O. Box 1178 Elizabethtown, North Carolina 28337
Frank Benedetti 22975 SW Riverview Lane Wilsonville, Oregon 97070	Karam Gill 4022-29 Avenue Edmonton, Alberta, Canada T6L 3C6
Choice Investment Management A/C Choice Balanced Fund 5299 DTC Blvd. Ste. 1150 Greenwood Village, Colorado 80111 Greg Drose, Chief Operating Officer	Earl Brinkman & Joyce Mason-Brinkman JTWROS 4044 Bridgewood Lane Westlake Village, CA 91362-3703

TAB 21

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SOUTH FERRY LP #2, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

KERRY K. KILLINGER, et al.,

Defendants.

CASE NO. C04-1599-JCC

FINAL ORDER APPROVING
CLASS ACTION SETTLEMENT
AND AWARDING ATTORNEYS'
FEES AND EXPENSES

This matter comes before the Court on Lead Plaintiffs' motion for final approval of class action settlement and plan of allocation of settlement proceeds (Dkt. No. 269) and Lead Counsel's motion for award of attorneys' fees and reimbursement of expenses (Dkt. No. 270).

On June 5, 2012, this Court conducted a hearing to determine: (1) whether the terms and conditions of the Class Action Settlement Agreement dated October 5, 2011 (the "Settlement Agreement") are fair, reasonable, and adequate for the settlement of the Action now pending in this Court under the above caption, including the release of all Released Claims against Defendants and the other Released Parties, and should be approved; (2) whether judgment should be entered dismissing the Complaint on the merits and with prejudice in favor of Defendants and as against all persons or entities who are members of the Class herein who have not requested exclusion therefrom; (3) whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds among the members of the Class; and (4) whether and

1 in what amount to award Plaintiffs' Counsel fees and reimbursement of expenses. The Court,
2 having considered all matters submitted to it at the hearing and otherwise; and it appearing that a
3 notice of the hearing substantially in the form approved by the Court was mailed to all persons or
4 entities reasonably identifiable, who purchased the common stock of Washington Mutual, Inc.
5 ("WMI") between April 15, 2003 and June 28, 2004, inclusive (the "Class Period"), as shown by
6 the records of WMI's transfer agent, at the respective addresses set forth in such records, and that
7 a summary notice of the hearing substantially in the form approved by the Court was published
8 in the global edition of *The Wall Street Journal* and transmitted over the Global Media Circuit of
9 *Business Wire* pursuant to the specifications of the Court; and the Court having considered and
10 determined the fairness and reasonableness of the award of attorneys' fees and expenses
11 requested; and all capitalized terms used but not otherwise defined herein having the meanings as
12 set forth and defined in the Settlement Agreement.

13 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

14 1. The Court has jurisdiction over the subject matter of the Action, the Lead
15 Plaintiffs, all Class Members, and the Defendants.

16 2. The Court finds that the prerequisites for a class action under Federal Rules of
17 Civil Procedure 23 (a) and (b)(3) have been satisfied in that: (a) the number of Class Members is
18 so numerous that joinder of all members thereof is impracticable; (b) there are questions of law
19 and fact common to the Class; (c) the claims of the Class Representative are typical of the claims
20 of the Class it seeks to represent; (d) the Class Representative and Plaintiffs' Co-Lead Counsel
21 have and will fairly and adequately represent the interests of the Class; (e) the questions of law
22 and fact common to the members of the Class predominate over any questions affecting only
23 individual members of the Class; and (f) a class action is superior to other available methods for
24 the fair and efficient adjudication of the controversy.
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1 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby
2 finally certifies this action as a class action on behalf of all persons who purchased the common
3 stock of Washington Mutual, Inc. between April 15, 2003 and June 28, 2004, inclusive, and who
4 were damaged thereby. Excluded from the Class are Washington Mutual, Inc. and the Individual
5 Defendants; former defendants William W. Longbrake, Craig J. Chapman, James G. Vanasek
6 and Michelle McCarthy; any other officers and directors of WMI during the Class Period;
7 members of their immediate families and their legal representatives, heirs, successors or assigns;
8 and any entity in which any of the Defendants or former defendants have or had a controlling
9 interest. Also excluded from the Class are the persons and/or entities who requested exclusion
10 from the Class as listed on Exhibit 1 annexed hereto.

11 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby
12 finally certifies Walden Management Co. Pension Plan as Class Representative.

13
14 5. Notice of the pendency of this Action as a class action and of the proposed
15 Settlement was given to all Class Members who could be identified with reasonable effort. The
16 form and method of notifying the Class of the pendency of the Action as a class action and of the
17 terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal
18 Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §
19 78u-4(a)(7) as amended by the Private Securities Litigation Reform Act of 1995, due process,
20 and any other applicable law, constituted the best notice practicable under the circumstances, and
21 constituted due and sufficient notice to all persons and entities entitled thereto. Plaintiffs' Co-
22 Lead Counsel has filed with the Court proof of mailing of the Notice and Proof of Claim and
23 proof of publication of the Publication Notice.

6. The Settlement is approved as fair, reasonable, and adequate, and the Class Members and the parties are directed to consummate the Settlement in accordance with the terms and provisions of the Settlement Agreement.

7. The Complaint, which the Court finds was filed on a good faith basis in accordance with the Private Securities Litigation Reform Act and Rule 11 of the Federal Rules of Civil Procedure based upon all publicly available information, is hereby dismissed with prejudice and without costs, as against the Defendants.

8. Lead Plaintiffs and members of the Class, on behalf of themselves, their heirs, executors, administrators, predecessors, successors and assigns, are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liabilities whatsoever), whether known claims or Unknown Claims, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, whether at law or in equity, matured or un-matured, whether class or individual in nature (i) that have been asserted in this Action or in the Chapter 11 Cases against any of the Released Parties relating to the purchase or sale of WMI common stock during the Class Period, including, without limitation, the Bankruptcy Claims, or (ii) that could have been asserted in the Action or the Chapter 11 Cases or in any forum against any of the Released Parties arising out of or based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Complaint and which relate to the purchase or sale of WMI common stock during the Class Period (the "Released Claims") against WMI, the Individual Defendants, Chapman, Longbrake, Vanasek, McCarthy and any and all of their past or present subsidiaries, parents, successors and predecessors, officers, directors, agents, employees, attorneys, advisors,

1 investment advisors, auditors, accountants, insurers, and any person, firm, trust, corporation,
2 officer, director or other individual or entity in which WMI, the Individual Defendants or
3 Longbrake, Chapman, McCarthy and Vanasek has or has had a controlling interest or which was
4 or is related to or affiliated with WMI or any of the Individual Defendants, and the legal
5 representatives, marital communities, heirs, successors in interest or assigns of any of the
6 foregoing (the “Released Parties”). The Released Claims are hereby compromised, settled,
7 released, discharged and dismissed as against the Released Parties on the merits and with
8 prejudice by virtue of the proceedings herein and this Final Judgment and Order of Dismissal
9 with Prejudice. For the avoidance of doubt, nothing contained herein shall be deemed to release,
10 bar, waive, impair or otherwise impact: (1) any claims to enforce the Settlement and the
11 transactions required pursuant to the Settlement; (2) any claims belonging to the Debtors, their
12 current affiliates or their successors in interest or otherwise asserted by the Debtors, their current
13 affiliates or their successors in interest against any other Released Party, or any Released Party’s
14 defenses, counterclaims or claims for indemnification, if any—other than claims for
15 indemnification with respect to payments made to defend or settle the Action—with respect
16 thereto; (3) claims by any Released Party against the Debtors in the Chapter 11 Cases, including
17 indemnification claims—other than claims for indemnification with respect to payments made to
18 defend or settle the Action—or the Debtors’ defenses and counterclaims with respect thereto;
19 provided, however, that, to the extent that any Contributing Carriers claim subrogation rights
20 against the Debtors on the basis of the Released Parties’ indemnification claims, all such claims
21 and the Debtors’ defenses with respect thereto are expressly preserved; (4) except to the extent
22 released pursuant to the settlement agreement in the class action styled *In re Washington Mutual,*
23 *Inc. ERISA Litigation*, Lead Case No. 07-cv-1874 (W.D. Wash.), claims, if any, by any Class
24 Member against the Released Parties arising under the Employee Retirement Income Security
25 Act of 1974, 29 U.S.C. § 1001, *et seq.* (“ERISA”) that are separate and do not arise from or
26 relate to the claims asserted in the Action; (5) claims by any Class Member individually in the

Chapter 11 Cases based solely upon such Class Member's status as a holder or beneficial owner (as opposed to a purchaser) of any WMI debt or equity security with respect to their right to participate in the distribution of funds in the Chapter 11 Cases upon confirmation of a chapter 11 plan or otherwise solely to the extent that such distribution is being made on account of such security and not in any way arising from or related to being a Class Member; or (6) any Class Member's right to participate in the distribution of any funds recovered from any of Defendants by any governmental or regulatory agency. For the avoidance of doubt, notwithstanding the designation of a party as a "Released Party," the Settlement Agreement only operates to release the Released Party from a claim, counterclaim or defense that is a Released Claim.

9. Defendants and their heirs, executors, administrators, predecessors, successors and assigns of any of them and the other Released Parties, are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Action or any forum by the Defendants or any of them or the successors and assigns of any of them against any of the Lead Plaintiffs, other Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement or the transactions required pursuant to the Settlement) (the "Released Defendants' Claims"). The Released Defendants' Claims of all the Released Parties are hereby compromised, settled, released, discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Final Judgment and Order of Dismissal with Prejudice.

10. With respect to any and all Released Claims and Released Defendants' Claims, the parties stipulate and agree that upon the Effective Date, the Lead Plaintiffs and the Defendants shall expressly waive, and each Class Member shall be deemed to have waived, and

1 by operation of the Judgment shall have expressly waived, any and all provisions, rights and
2 benefits conferred by any law of any state or territory of the United States, or principle of
3 common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which
4 provides:

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

9 Lead Plaintiffs and Defendants acknowledge, and all other Class Members by operation of law
10 shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition
11 of Released Claims and Released Defendants’ Claims was separately bargained for and was a
12 key element of the Settlement.

13 11. Notwithstanding the provisions of ¶¶ 8, 9 and 10 hereof, (i) in the event that any
14 of the Released Parties asserts against the Lead Plaintiffs, any other Class Member or Plaintiffs’
15 Counsel, any claim that is a Released Defendants’ Claim, then Lead Plaintiffs, such Class
16 Member or Plaintiffs’ Counsel shall be entitled to use and assert such factual matters included
17 within the Released Claims against such Released Party only in defense of such claim but not for
18 the purposes of affirmatively asserting any claim against any Released Party; and (ii) in the event
19 that any of the Lead Plaintiffs, any other Class Member or Plaintiffs’ Counsel asserts against any
20 Released Parties any Released Claims, such Released Parties or their respective counsel shall be
21 entitled to use and assert such factual matters included within the Released Defendants’ Claims
22 against such claimant only in defense of such claim but not for the purposes of affirmatively
23 asserting any claim against any such claimant.

24 12. Neither this Final Judgment and Order of Dismissal with Prejudice, the Settlement
25 Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings
26 connected with it, shall be:

1 (a) offered or received against any Defendant as evidence of or construed as
2 or deemed to be evidence of any presumption, concession, or admission by any Defendant with
3 respect to the truth of any fact alleged by any of the plaintiffs or the validity of any claim that has
4 been or could have been asserted in the Action or in any litigation, or the deficiency of any
5 defense that has been or could have been asserted in the Action or in any litigation, or of any
6 liability, negligence, fault, or wrongdoing of any Defendant;

7 (b) offered or received against any Defendant as evidence of a presumption,
8 concession or admission of any fault, misrepresentation or omission with respect to any
9 statement or written document approved or made by any Defendant;

10 (c) offered or received against any Defendant as evidence of a presumption,
11 concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any
12 way referred to for any other reason as against any Defendant, in any other civil, criminal or
13 administrative action or proceeding, other than such proceedings as may be necessary to
14 effectuate the provisions of the Settlement Agreement; provided, however, that Defendants may
15 refer to it to effectuate the liability protection granted them hereunder;

16 (d) construed against Lead Plaintiffs or any of the other Class Members or
17 against any Defendant as an admission or concession that the consideration to be given
18 hereunder represents the amount which could be or would have been recovered after trial; or

19 (e) construed as or received in evidence as an admission, concession or
20 presumption against Lead Plaintiffs or any of the other Class Members that any of their claims
21 are without merit, or that any defenses asserted by any Defendant have any merit, or that
22 damages recoverable under the Complaint would not have exceeded the Gross Settlement Fund.
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1 13. The Plan of Allocation is approved as fair and reasonable, and Plaintiffs' Counsel
2 and the Claims Administrator are directed to administer the Settlement Agreement in accordance
3 with its terms and provisions.

4 14. The Court finds that all parties and their counsel have complied with each
5 requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.
6

7 15. Plaintiffs' Counsel are hereby awarded 29% of the Gross Settlement Fund in fees,
8 which sum the Court finds to be fair and reasonable, and \$879,674.77 in reimbursement of
9 expenses, which amounts shall be paid to Plaintiffs' Co-Lead Counsel from the Settlement Fund
10 with interest from the date such Settlement Fund was funded to the date of payment at the same
11 net rate that the Settlement Fund earns. The award of attorneys' fees shall be allocated among
12 Plaintiffs' Counsel in a fashion which, in the opinion of Plaintiffs' Co-Lead Counsel, fairly
13 compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the
14 Action.

15 16. In making this award of attorneys' fees and reimbursement of expenses to be paid
16 from the Gross Settlement Fund, the Court has considered and found that:
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18 (a) the Settlement has created a fund of \$41.5 million in cash that is already
19 on deposit, plus interest thereon, and that numerous Class Members who submit acceptable
20 Proofs of Claim will benefit from the Settlement;

21 (b) Over 490,000 copies of the Notice were disseminated to putative Class
22 Members indicating that Plaintiffs' Counsel were moving for attorneys' fees in an amount not to
23 exceed one-third (33⅓%) of the Gross Settlement Fund and for reimbursement of their expenses
24 in the approximate amount of \$1,000,000 and only three (3) objections were filed against the
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1 terms of the proposed Settlement or the ceiling on the fees and expenses requested by Plaintiffs’
2 Counsel contained in the Notice;

3 (c) Plaintiffs’ Counsel have conducted the litigation and achieved the
4 Settlement with skill, perseverance and diligent advocacy;

5 (d) The Action involves complex factual and legal issues and was actively
6 prosecuted over nearly seven years and, in the absence of a settlement, would involve further
7 lengthy proceedings with uncertain resolution of the complex factual and legal issues;

8 (e) Had Plaintiffs’ Counsel not achieved the Settlement there would remain a
9 significant risk that the Class may have recovered less or nothing from Defendants;

10 (f) Plaintiffs’ Counsel have devoted over 18,000 hours, with a lodestar value
11 of \$8,900,000 to achieve the Settlement; and

12 (g) The amount of attorneys’ fees awarded and expenses reimbursed from the
13 Settlement Fund are fair and reasonable and consistent with awards in similar cases.

14
15 17. Exclusive jurisdiction is hereby retained over the parties and the Class Members
16 for all matters relating to this Action, including the administration, interpretation, effectuation or
17 enforcement of the Settlement Agreement and this Final Judgment and Order of Dismissal with
18 Prejudice, and including any application for fees and expenses incurred in connection with
19 administering and distributing the settlement proceeds to the members of the Class; provided,
20 however, that the Bankruptcy Court shall retain exclusive jurisdiction over the interpretation and
21 enforcement of the Bankruptcy Court Approval Order.

22
23 18. Without further order of the Court, the parties may agree to reasonable extensions
24 of time to carry out any of the provisions of the Settlement Agreement.

1 FOR THE FOREGOING REASONS, the Court GRANTS Lead Plaintiffs' motion for
2 final approval of class action settlement and plan of allocation of settlement proceeds (Dkt. No.
3 269) and GRANTS Lead Counsel's motion for award of attorneys' fees and reimbursement of
4 expenses (Dkt. No. 270). This action is DISMISSED WITH PREJUDICE.

5 DATED this 5th day of June 2012.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

List of Persons and Entities Requesting Exclusion from the Class in *South Ferry LP #2 v. Kerry K. Killinger, et al.*, Case No. C04-1599 JCC

The following persons and entities have properly requested exclusion from the Class in *South Ferry LP #2 v. Kerry K. Killinger, et al.*, Case No. C04-1599 JCC, and are not members of the Class bound by this Final Judgment and Order of Dismissal with Prejudice:

No.	Name	Address
1	Katherine Walker Childs	12510 NE 94th Street Kirkland, WA 98033-5875
2	Ruth E. Bridges	1827 Thornhill Rd. #107 Wesley Chapel, FL 33544
3	Charlie Rivera	12143 Maple Ridge Dr. Parrish, FL 34219
4	Denny Sue Johnson	Box 1714 Gold Beach, OR 97444
5	Lillian N. Mosley R.E. Mosley	275 County Road 4247 DeKalb, TX 75559
6	Ernest A. Dahl	2226 Vista Hogar Newport Beach, CA 92660
7	Donald W. Dearment	500 E. Pitt St. Bedford, PA 15522
8	Arthur Nelson	P.O. Box 129 Seekonk, MA 02771
9	Mary Nake Bond	7923 Colonel Glenn Rd. Little Rock, AR 72204
10	Charles W. Hadley Ethel S. Hadley	3907 NE 110th St. Seattle, WA 98125
11	Earl F. O'Connor	7343 S. Sherman Dr. Indianapolis, IN 46237
12	Abe Price	158 Lollypop Lane #3 Naples, FL 34112-5109
13	Jane K. Whitney	6609 Markstown Drive Apt. B Tampa, FL 33617-9365
14	Mark Paper	700 Twelve Oaks Center Dr. Ste. 711 Wayzata, MN 55391

15	Edward T. Flotz	127 Franconian Dr. S. Frankenmuth, MI 48734
16	Bradley Keding	15545 Meyer Ave. Allen Park, MI 48101
17	Debra A. Langford	1480 North Meadow Rd. Merrick, NY 11566
18	Josephine R Burns	P.O. Box 546 El Granada, CA 94108-0546
19	Moiria L. L. Nichols	33 Linda Ave. Apt. 2003 Oakland, CA 94611
20	Richard J. Imbra	3312 Grandada Ave. San Diego, CA 92104
21	Bruce MacLeod	556 Mill Street Ext. Lancaster, MA 01523
22	John Mitchell Campbell Jr.	16 East Fox Chase Rd. Chester, NJ 07930
23	Janet Schultz	846 Newport Bay Dr. Edwardsville, IL 62025
24	Susan Iorns	16 Ocean Parade Pukerua Bay Porirua 5026 New Zealand
25	Cordelia F Biddle H. Stephen Zettler	514 Pine Street Philadelphia, PA 19106
26	Lawrence Papola Marie Papola	191 Atlantic Pl. Hauppauge, NY 11788
27	Carl Hunter	4030 30th Ave. West Seattle, WA 98199-1709
28	Steven W. Loring	91-1040-Puamaeole St. #S Ewa Beach, HI 96706
29	Margaret P. Jones	737 Pinebrook Dr. Virginia Beach, VA 23462
30	Bruce Alexander	10464 SW 118 St. Miami, FL 33176
31	Paul Putnam Mona Putnam	1140 Portola Ave. Escondido, CA 92026-1732
32	Douglas Duncan	679 Flamenco Pl. Davis, CA 95616
33	Robert Born Ophelia Born	8800 Glacier Ave. Apt. 302 Texas City, TX 77591-3052

34	John G. Clapp	12 Sunset Drive Apt. 2 Alexandria, VA 22301-2640
35	Jacquelyn Clarke	10465 Dunlop Rd. Delta, BC V4C 2L1, Canada
36	Bonnie J. Orr Rufus D. Orr	7536 32nd Ave. NW Seattle, WA 98117-4646
37	Charles GaGaig	P.O. Box 7666 Northridge, CA 91327
38	Don Thorsteinson	5775 Hampton Place #1006 Vancouver, B.C. V6T 2G6
39	David P. Yaffe	10416 Wyton Dr. Los Angeles, CA 90024
40	Michelle Jurczak	325 Kennedy Ave. Toronto, Ontario M6P 3C4
41	John G. Hudson	P.O. Box 283 Fort Smith, AR 72902
42	Carl P. Irwin	10 White Oak Dr. Apt# 218 Exeter, NH 03833-5314
43	Margaret K. Oliver Kay Collins	1002-5614 Balsam St. Vancouver BC V6M 4B7
44	John G. Hudson Living Trust	P.O. Box 283 Fort Smith, AR 72902
45	Rosemary Pacheco	338 Orchard St. Raynham, MA 02767-9385
46	Kathleen Guilfoyle	214 Northline Rd. Ballston Spa, NY 12020

TAB 22

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**In re ST. PAUL TRAVELERS.
SECURITIES LITIGATION II**

Civil. No. 04-4697 (JRT/FLN)

This Document Relates To:
ALL ACTIONS

**ORDER APPROVING REQUEST
FOR ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES,
AND
AUTHORIZING PAYMENT TO
CLAIMS ADMINISTRATOR**

THIS MATTER having come before the Court on July 11, 2008, on the Motion of Lead Counsel and Liaison Counsel ("Counsel") for an award of attorneys' fees and out-of-pocket expenses incurred in the Class Action and authorizing payment to the Claims Administrator for costs incurred to date; the Court, having considered all papers filed and proceedings conducted herein, and otherwise being fully informed in the premises and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation of Settlement dated January 17, 2008 (the "Stipulation") (Dkt. No. 208). This Court has jurisdiction over the subject matter of this application and all matters relating thereto.

2. Counsel for the Lead Plaintiff and the Settlement Class are entitled to a fee paid out of the common fund created for the benefit of the Class. *Boeing Co. v. Van Gemert*, 444

U.S. 472, 478-79 (1980). In class action suits where a fund is recovered and fees are awarded therefrom by the court, the Supreme Court has indicated that computing fees as a percentage of the common fund recovered is the proper approach. *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984). The Eighth Circuit recognizes the propriety of the percentage-of-the-fund method when awarding fees. *In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002).

3. Counsel have moved for an award of attorneys' fees of 23.5% of the Settlement Fund, or \$18,095,000.00. Counsel's fee and expense application has the support of Lead Plaintiff, the Educational Retirement Board of New Mexico, and the Attorney General for the State of New Mexico.

4. This Court concludes that the percentage-of-recovery is the proper method for awarding attorneys' fees in this Action and hereby adopts said method for purposes of this Action.

5. The Court finds that a fee award of [23.5%] of the Settlement Fund is consistent with, if not less than, awards made in similar cases. Courts throughout this Circuit regularly award fees of 25% to 30%, or more, of the total recovery under the percentage-of-the-recovery method. *See U.S. Bancorp*, 291 F.3d at 1038 (upholding 36% fee award); *In re Xcel Energy, Inc. Sec. Derivative & ERISA Litig.*, 364 F. Supp. 2d 980, 1004 (D. Minn. 2005) (awarding 25% of \$80 million settlement).

6. Accordingly, the Court hereby awards attorneys' fees of [23.5%] of the Settlement Fund, or [\$18,095,000.00]. The Court finds the fee award to be fair and reasonable. Said fees shall be allocated among plaintiffs' counsel by Lead Counsel in a

manner which, in its good faith judgment, reflects each counsel's contribution to the institution, prosecution, and resolution of the Action.

7. In making this award of attorneys' fees and expenses to be paid from the Settlement Fund, the Court has analyzed the factors commonly considered within the Eighth Circuit. *See Xcel Energy*, 364 F. Supp. 2d at 993. In evaluating these factors, the Court finds that:

(a) Counsel for Lead Plaintiff and the Settlement Class has conferred a substantial benefit to the Settlement Class by achieving the second largest securities fraud settlement in this District.

(b) Counsel for Lead Plaintiff and the Settlement Class has expended considerable effort and resources over the course of the Action investigating, analyzing and prosecuting the claims. This is evidenced by the parties' practice before the Court over the past four years and Counsel's representations that they have thoroughly investigated the claims asserted, interviewed witnesses, analyzed voluminous discovery, and consulted with experts in accounting, loss causation, damages and the insurance industry. The parties also engaged in settlement negotiations that lasted approximately six months. The services provided by Counsel appear to have been highly successful and efficient, resulting in an outstanding recovery for the Class without the substantial expense, risk, and delay of continued litigation and trial. Such efficiency and effectiveness supports the requested fee percentage.

(c) Counsel for Lead Plaintiff and the Settlement Class faced considerable risks of no recovery throughout the litigation, indeed a motion to dismiss the entire Action and the motion for class certification had yet to be resolved.

(d) This Action raised many novel and complex issues relating to, among other things, insurance industry practices. Also, cases brought under the federal securities laws are notoriously difficult and uncertain. Despite the novelty and difficulty of the issues raised, Counsel secured an excellent result for the Class.

(e) The Court has considered the objections to the fee request and finds that they are without merit and do not mitigate against granting attorneys' fees and expenses.

(f) Counsel are among the most experienced and skilled practitioners in the securities litigation field, and have considerable experience and capabilities as preeminent class action specialists. Their efforts in efficiently bringing the Action to a successful conclusion against the Defendants conferred a substantial benefit to the Class.

8. Counsel's total lodestar is \$17,296,216.50. A [23.5%] fee represents a lodestar multiplier of [1.05], which is considerably lower than the lodestar multipliers generally awarded in securities class actions. This further supports the Court's finding that the fee request is fair, adequate, and reasonable.

9. Counsel has also requested an award of reimbursement of expenses of \$1,845,733.73. Having reviewed the expense reports submitted by Counsel, the Court hereby approves the requested amount and awards expenses of [\$1,845,733.73].

10. The Court also awards the Court-appointed Claims Administrator, Garden City Group, Inc., the requested expense application of [\$2,499,565.23] for notice and administration costs incurred.

11. The awarded attorneys' fees and out-of-pocket expenses of Counsel, and the costs of the Garden City Group shall be paid to Lead Counsel from the Settlement Fund immediately after the date this Order is executed subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

IT IS SO ORDERED.

Dated: July 23, 2008
at Minneapolis, Minnesota

s/ John R. Tunheim
JOHN R. TUNHEIM
United States District Judge

TAB 23

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROSEMARIE STUMPF

v.

NEIL R. GARVEY, et al.

**(IN RE TYCOM LTD. SECURITIES
LITIGATION)**

)
)
) Hon. Garrett E. Brown, Jr.
) Chief U.S.D.J.
) Docket No. 03-CV-03540
) (GEB)(DEA)
)
)
)
)
)

FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

This matter came before the Court for hearing pursuant to an Order of this Court, dated May 6, 2010, on the application of the Settling Parties for approval of the Settlement set forth in the Settlement Agreement and Release dated as of March 26, 2010 (the "Settlement Agreement"). Due and adequate notice having been given of the Settlement as required in said Order, and the Court having considered all papers filed and proceedings held herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Judgment incorporates by reference the definitions in the Settlement Agreement, and all terms used herein shall have the same meanings set forth in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Members of the Class who did not timely file a request for exclusion from the Class by the October 1, 2009 deadline pursuant to the Court's Order dated May 19, 2009.

3. The distribution of the Notice and the publication of the Summary Notice, as provided for in the Preliminary Approval Order, constituted the best notice practicable under the circumstances, including individual notice to all Members of the Class who could be identified through reasonable effort. Said notices provided the best notice practicable under the circumstances of those proceedings and of the matters set forth therein, including the proposed Settlement set forth in the Settlement Agreement, to all Persons entitled to such notices, and said notices fully satisfied the requirements of Federal Rule of Civil Procedure 23, Section 27(a)(7) of the Securities Act of 1933, Section 21D(a)(7) of the Securities and Exchange Act of 1934, the requirements of Due Process, and any other applicable law.

4. The Court finds that the Settling Defendants have provided notice pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711 et seq.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement set forth in the Settlement Agreement and finds that said Settlement is, in all respects, fair, reasonable and adequate to, and is in the best interests of, the Lead Plaintiff, the Class and each of the Class Members. This Court further finds the Settlement set forth in the Settlement Agreement is the result of arm's-length negotiations between experienced counsel representing the interests of the Lead Plaintiff, Class Members and the Settling Defendants. Accordingly, the Settlement embodied in the Settlement Agreement is hereby approved in all respects and shall be consummated in accordance with its terms and provisions. The Settling Parties are hereby directed to perform the terms of the Settlement Agreement.

6. Except as to any individual claim of those Persons (identified in Exhibit 1 attached hereto), who pursuant to the Notice of Pendency of Class Action, timely requested exclusion from the Class before the October 1, 2009 deadline, the Action and all claims contained therein, including all of the Released Claims, are dismissed with prejudice as to the Lead Plaintiff and the other Members of the Class, and as against each and all of the Released Persons. The parties are to bear their own costs, except as otherwise provided in the Settlement Agreement.

7. Upon the Effective Date, the Lead Plaintiff and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have,

fully, finally, and forever released, relinquished and discharged all Released Claims against the Released Persons, whether or not such Class Member executes and delivers a Proof of Claim and Release form.

8. The Non-Settling Defendants and any other Person, including but not limited to any other person or entity later named as a defendant or third-party in the Action, are hereby permanently barred, enjoined and restrained from commencing, prosecuting, or asserting any claim for contribution or indemnification against the Released Persons (or any other claim against the Released Persons where the injury consists of actual or threatened liability to the Lead Plaintiff, the Class or any Class Member(s), including but not limited to any amounts paid in settlement of such actual or threatened liability, and any other costs or expenses, including attorneys' fees) based upon the Released Claims and/or the Action, whether as claims, cross-claims, counterclaims, third-party claims or otherwise, whether or not asserted in the Complaint, and whether asserted in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other tribunal or forum in the United States or elsewhere, provided, however, that a Non-Settling Defendant shall not be barred from pursuing claims against Tyco or TyCom for indemnification in connection with the Action to the extent of such Non-Settling Defendant's contractual or statutory rights.

9. The Released Persons are hereby permanently barred, enjoined and restrained from commencing, prosecuting or asserting against the Non-Settling Defendants and any other Person, including but not limited to any other person or entity later named as a defendant or third-party in the Action, any claim for contribution or indemnification (or any other claim where the injury to such Released Person(s) is any Person's actual or threatened liability to the Lead Plaintiff, the Class or any Class Member(s), including but not limited to any amounts paid in settlement of such actual or threatened liability, and any other costs or expenses, including attorneys' fees) based upon the Released Claims and/or the Action, whether as claims, cross-claims, counterclaims, third-party claims or otherwise, whether or not asserted in the Complaint, and whether asserted in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other tribunal or forum in the United States or elsewhere, provided, however, (a) that Tyco and TyCom shall not be barred from pursuing (i) claims against a Non-Settling Defendant for defense fees and costs incurred in defense of claims asserted against Tyco, TyCom and/or any Settling Defendant in the Action or (ii) claims against a Non-Settling Defendant asserted by Tyco and/or TyCom as of the date of this Settlement and (b) that nothing in this Stipulation or otherwise shall be deemed to release or affect any indemnification or contribution claims and/or rights between or

among the Underwriter Defendants, Tyco and TyCom relating to the IPO, including those arising under (i) the Underwriting Agreement for the IPO dated July 26, 2000, and (ii) the Agreement Among Underwriters for the IPO dated July 26, 2000.

10. The Court shall reduce a future verdict or judgment entered against the Non-Settling Defendants with respect to the Action for any claims as to which the Non-Settling Defendants' rights have been extinguished by virtue of the bar order contained in ¶ 8 of this Order by such amount determined by the Court under applicable law.

11. Upon the Effective Date hereof, each of the Released Persons shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished and discharged the Lead Plaintiff, each and all of the Class Members and Plaintiff's Counsel from all claims (including Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution of the Action or the Released Claims.

12. Any further orders or proceedings solely regarding the Plan of Allocation shall in no way disturb or affect this Judgment and shall be separate and apart from this Judgment.

13. Neither the Settlement Agreement nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance

of the Settlement Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Settling Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. The Released Persons may file the Settlement Agreement and/or the Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

14. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees and expenses in the Action; and (d) all parties hereto for the purpose of construing, enforcing and administering the Settlement Agreement.

15. The Court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of

Federal Rule of Civil Procedure 11.

16. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement or the Effective Date does not occur, or in the event that the Settlement Fund, or any portion thereof, is returned to the Settling Defendants, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

17. The Court hereby **GRANTS** Lead Counsel attorneys' fees of 33 $\frac{1}{3}$ % of the Settlement Fund and expenses in an amount of \$2,326,340⁰⁰, together with the interest earned thereon for the same time period and at the same rate as that earned on the Settlement Fund until paid. Said fees shall be allocated by Lead Counsel in a manner which, in their good-faith judgment, reflects each counsel's contribution to the institution, prosecution and resolution of the Action. The Court finds that the amount of fees awarded is fair and reasonable in light of the time and labor required, the novelty and difficulty of the case, the skill required to prosecute the case, the experience and ability of the attorneys, awards in similar cases, the contingent nature of the representation and the result obtained for

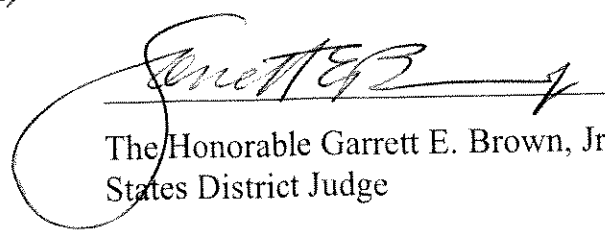
the Class.

18. The Court hereby **GRANTS** Lead Plaintiff reimbursement of his reasonable costs and expenses (including lost wages) directly related to his representation of the Class in the amount of \$ 5,000.⁰⁰

19. The awarded attorney fees and expenses, and interest earned thereon, shall be paid to Lead Counsel from the Settlement Fund immediately after the date this Order is executed subject to the terms, conditions, and obligations of the Settlement Agreement and in particular ¶6.2 thereof, which terms, conditions, and obligations are incorporated herein.

20. The Court expressly determines that there is no just reason for delay in entering this Judgment and directs the Clerk of the Court to enter this Judgment pursuant to Fed. R. Civ. P. 54(b).

DATED: August 25, 2010


The Honorable Garrett E. Brown, Jr. United
States District Judge

TAB 24

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re VERISIGN, INC. SECURITIES
LITIGATION

) Master File No. C-02-2270-JW(PVT)

) CLASS ACTION

This Document Relates To:

ALL ACTIONS.

) [PROPOSED] ORDER AWARDING
) PLAINTIFFS' COUNSEL'S ATTORNEYS
) FEES AND REIMBURSEMENT OF
) EXPENSES

DATE: March 12, 2007

TIME: 9:00 a.m.

COURTROOM: The Honorable James Ware

1 This matter having come before the Court on March 12, 2007, on the application of counsel
2 for the Lead Plaintiffs for an award of attorneys' fees and reimbursement of expenses incurred in the
3 captioned action, the Court, having considered all papers filed and proceedings conducted herein,
4 having found the settlement of this action to be fair, reasonable, and adequate and otherwise being
5 fully informed in the premises and good cause appearing therefor;

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

7 1. All of the capitalized terms used herein shall have the same meanings as set forth in
8 the Stipulation of Settlement and Release dated as of December 12, 2006 (the "Stipulation"), and
9 filed with the Court.

10 2. This Court has jurisdiction over the subject matter of this application and all matters
11 relating thereto, including all Members of the Class who have not timely and validly requested
12 exclusion.

13 3. The Court has reviewed and considered the objections submitted by the
14 Commonwealth of Pennsylvania Public School Employees' Retirement System, the New York State
15 Teachers' Retirement System and George and Maribeth Lebus. The Court finds the above
16 objections to be without merit and hereby overrules each of the objections.

17 4. The Court hereby awards counsel for Lead Plaintiffs attorneys' fees of 25% of the
18 Settlement Fund, plus reimbursement of litigation expenses in the amount of \$4,200,000 together
19 with the interest earned thereon for the same time period and at the same rate as that earned on the
20 Settlement Fund until paid. The Court finds that the amount of fees awarded is appropriate and that
21 the amount of fees awarded is fair and reasonable under the "percentage-of-recovery" method given
22 the substantial risks of non-recovery, the time and effort involved, and the result obtained for the
23 Class.

24 5. The fees shall be allocated among counsel for the Lead Plaintiffs by Lead Counsel
25 Lerach Coughlin Stoia Geller Rudman & Robbins LLP in a manner which reflects each such
26 counsel's contribution to the institution, prosecution and resolution of the captioned action.

27 6. The awarded attorneys' fees and expenses and interest earned thereon shall
28 immediately be paid to Lead Counsel subject to the terms, conditions and obligations of the
[PROPOSED] ORDER AWARDING PLAINTIFFS' COUNSEL'S ATTORNEYS FEES AND
REIMBURSEMENT OF EXPENSES - C-02-2270-JW(PVT)

Stipulation, and in particular ¶9.3 thereof which terms, conditions and obligations are incorporated herein.

IT IS SO ORDERED.

DATED: April 23 2007


THE HONORABLE JAMES WARE
UNITED STATES DISTRICT JUDGE

Submitted by:

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
PATRICK J. COUGHLIN
JEFFREY W. LAWRENCE
DENNIS J. HERMAN
CHRISTOPHER P. SEEFER
SHIRLEY H. HUANG
100 Pine Street, Suite 2600
San Francisco, CA 94111
Telephone: 415/288-4545
415/288-4534 (fax)

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
WILLIAM S. LERACH
JOY ANN BULL

s/ Joy Ann Bull
JOY ANN BULL

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

Lead Counsel for Plaintiffs

LAW OFFICES BERNARD M. GROSS, P.C.
BERNARD M. GROSS
DEBORAH R. GROSS
Wanamaker Bldg., Suite 450
100 Penn Square East
Philadelphia, PA 19107
Telephone: 215/561-3600
215/561-3000 (fax)

1 COHEN, MILSTEIN, HAUSFELD
2 & TOLL, P.L.L.C.
3 STEVEN J. TOLL
4 LISA M. MEZZETTI
5 JOSHUA S. DEVORE
6 1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, DC 20005-3964
Telephone: 202/408-4600
202/408-4699 (fax)

7 SCHATZ NOBEL IZARD, P.C.
8 ANDREW M. SCHATZ
9 JEFFREY S. NOBEL
10 NANCY A. KULESA
11 One Corporate Center
20 Church Street, Suite 1700
Hartford, CT 06103
Telephone: 860/493-6292
860/493-6290 (fax)

12 Additional Counsel for Plaintiffs

13 S:\Settlement\Verisign.set\ORD FEE 00039747.doc

CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I further certify that I caused this document to be forwarded to the following designated Internet site at: <http://securities.lerachlaw.com/>.

s/ Joy Ann Bull
JOY ANN BULL

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-3301
Telephone: 619/231-1058
619/231-7423 (fax)

E-mail: JoyB@lerachlaw.com

Mailing Information for a Case 5:02-cv-02270-JW

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Jennie Lee Anderson**
jennia@lerachlaw.com
- **Randi D. Bandman**
randib@lerachlaw.com e_file_sd@lerachlaw.com;e_file_sf@lerachlaw.com
- **Noah Daniel Boyens**
nboyens@omm.com
- **Patrick J. Coughlin**
patc@lerachlaw.com e_file_sf@lerachlaw.com
- **Joshua Seth Devore**
jdevore@cmht.com
- **David Malcolm Furbush**
dfurbush@omm.com dbrown@omm.com;dshah@omm.com;lnewell@omm.com
- **Marc Lawrence Godino**
mgodino@glancylaw.com
- **Deborah R. Gross**
debbie@bernardmgross.com
- **Christopher T. Heffelfinger**
cheffelfinger@bermanesq.com
- **Dennis J. Herman**
dennish@lerachlaw.com e_file_sf@lerachlaw.com
- **Jessica Anne Hoogs**
jhoogs@omm.com
- **Shirley H. Huang**
shirleyh@lerachlaw.com e_file_sd@lerachlaw.com;e_file_sf@lerachlaw.com
- **Meredith N. Landy**
mlandy@omm.com
dfurbush@omm.com;dbrown@omm.com;lhabbeshaw@omm.com;dedmondson@omm.com;jbake
- **Jeffrey W. Lawrence**
jeffreyl@lerachlaw.com e_file_sd@lerachlaw.com;e_file_sf@lerachlaw.com

- **William S. Lerach**
e_file_sd@lerachlaw.com
- **Ioana Petrou**
ioana.petrou@usdoj.gov tyle.doerr@usdoj.gov
- **Darren J. Robbins**
- **Mark Wayne Robertson**
mrobertson@omm.com
- **Lori E. Romley**
lromley@omm.com dbrown@omm.com
- **Adam T. Savett**
asavett@cmht.com
- **Shana Eve Scarlett**
shanas@lerachlaw.com e_file_sd@lerachlaw.com;e_file_sf@lerachlaw.com
- **Andrew M. Schatz**
firm@snlaw.net
- **Christopher Paul Seefer**
chriss@lerachlaw.com
e_file_sd@lerachlaw.com;e_file_sf@lerachlaw.com;KiyokoF@lerachlaw.com
- **Dhaivat H. Shah**
dshah@omm.com rbrown@omm.com
- **Alfred Glenn Yates, Jr**
yateslaw@aol.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Amy Freeman
O'Melveny & Myers
400 S. Hope Street
Los Angeles, CA 90071

Bernard M. Gross
Law Offices of Bernard M. Gross, P.C.
Suite 450, John Wanamaker Bldg.
Juniper & Market Streets
100 Penn Square East
Philadelphia, PA 19107

Nancy A. Kulesa

Schatz & Nobel, P.C.
One Corporate Center
20 Church Street, Suite 1700
Hartford, CT 06103

Lisa M. Mezzetti
Cohen Milstein Hausfeld & Toll, P.L.L.C.
1100 New York Avenue, N.W.
Suite 500
West Tower
Washington, DC 20005

Simon Bahne Paris
Spector, Roseman & Kodroff, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103

Steven J. Toll
Cohen Milstein Hausfeld & Toll, P.L.L.C.
1100 New York Avenue, N. W.
West Tower, Suite 500
Washington, DC 20005-3964

Mark S. Willis
Cohen Milstein Hausfeld & Toll PLLC
1100 New York Ave., N.W.
West Tower, Suite 500
Washington, DC 20005

VeriSign Manual Service List

Robert M. Roseman
Spector, Roseman & Kodroff, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103
215/496-0300
215/496-6611 (fax)

Arthur L. Shingler III
Scott + Scott LLP
600 B Street, Suite 1500
San Diego, CA 92101
619/233-4565
619/233-0508 (fax)

Objectors

Joseph M. Cafiero
Veronica W. Cafiero
10 Packsaddle Road West
Rolling Hills, CA 90274
310/544-4160

William L. Purdon
11475 Foxhaven Drive
Chesterland, OH 44026
440/729-7295

Lenann T. Engler
Commonwealth of Pennsylvania
Public School Employees' Retirement System
5 North Fifth Street, 5th Floor
Harrisburg, PA 17101
717/720-4687
717/783-8010 (fax)

Joseph J. Indelicato, Jr.
New York State Teachers' Retirement System
10 Corporate Woods Drive
Albany, New York 12211-2395
800/356-3128
518/447-2679 (fax)

Todd Turner
The Turner Firm
1200 Summit Avenue
Suite 800
Fort Worth, Texas 76102
817/878-2700
817/878-2705 (fax)

Exhibit 18

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

IN RE: NII HOLDINGS, INC.
SECURITIES LITIGATION

Case No. 1:14-cv-227-LMB-JFA

**DECLARATION OF OLE KROGH PETERSEN, EXECUTIVE VICE
PRESIDENT – LAW & COMPLIANCE FOR DANICA PENSION,
LIVSFORSIKRINGSAKTIESELSKAB IN SUPPORT OF: (A) CLASS
REPRESENTATIVES' MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT; (B) CLASS COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND PAYMENT OF EXPENSES; AND (C) DANICA
PENSION, LIVSFORSIKRINGSAKTIESELSKAB'S REQUEST FOR
REIMBURSEMENT OF COSTS AND EXPENSES**

I, OLE KROGH PETERSEN, hereby declare under penalty of perjury as follows:

I. I am Executive Vice President – Law and Compliance for Danica Pension, Livsforsikringsaktieselskab (“Danica”). I submit this declaration in support of (a) Class Representatives’ motion for final approval of the proposed settlement reached with the Defendants in the Action (the “Settlement”); (b) Class Counsel’s motion for an award of attorneys’ fees and payment of expenses; and (c) Danica’s request for reimbursement of reasonable costs and expenses incurred in connection with its representation of the Class in the Action.¹ I have personal knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

¹ Unless otherwise indicated, capitalized terms used herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated April 18, 2016, entered into by and among Class Representatives and Defendants. ECF No. 247-1.

2. Located in Lyngby, Denmark, Danica is one of Denmark's largest pension providers, with more than 600,000 customers. Danica provides pension schemes as well as life insurance and health insurance products, including personal health insurance, health insurance for children, critical illness insurance, loss of earning capacity, and health packages, to individuals located throughout Denmark, Finland, Norway, and Sweden. Danica currently has approximately \$50 billion in pension assets under management.

3. On June 11, 2014, Danica was appointed by the Court as one of the Lead Plaintiffs pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"). Thereafter, on November 17, 2015, the Court appointed Danica, along with the other Lead Plaintiffs, as Class Representatives for the Class.

I. Danica's Oversight of the Action

4. I have been the primary person involved, on behalf of Danica, in monitoring and overseeing the prosecution of this Action and the negotiations that resulted in the Settlement. On behalf of Danica, I had regular communications throughout the litigation with attorneys from Kessler Topaz Meltzer & Check, LLP ("Kessler Topaz")—one of the law firms serving as Court-appointed Class Counsel, Danica, through my active and continuous involvement, as well as the involvement of others as detailed below, closely supervised, carefully monitored, and was actively involved in the prosecution and resolution of the Action. Danica received periodic status reports from Kessler Topaz on case developments, and participated in regular discussions

with attorneys from Kessler Topaz concerning the prosecution of the Action, the strengths of and risks to the claims asserted against Defendants and potential settlement.

5. In particular, throughout the course of this Action, I, as well as other employees of Danica:

(a) regularly communicated with attorneys from Kessler Topaz by email, telephone, as well as through in-person discussions, regarding the posture and progress of the Action, including all major litigation strategy decisions;

(b) reviewed all significant pleadings, briefs and correspondence filed in the Action, and provided comments and analysis as needed;

(c) supervised discovery produced by Danica, including the production of documents, and written responses to document requests and interrogatories;

(d) prepared for and sat for a deposition, which was taken on September 30, 2015 in New York, New York;

(e) consulted with Kessler Topaz concerning the settlement negotiations that occurred during the course of the Action and those that ultimately led to the agreement in principle to settle the Action, including two mediations; and

(f) evaluated, approved and recommended approval of the proposed Settlement for \$41.5 million in cash.

II. Danica Strongly Endorses Approval of the Settlement

6. Based on its involvement throughout the prosecution and resolution of the Class's claims, Danica strongly endorses the proposed Settlement and believes the proposed Settlement is fair, reasonable and adequate to the Class. This Settlement

provides an excellent recovery for the Class, particularly in light of the substantial risks and uncertainties of a trial and continued litigation of this Action. In addition, Danica was aware that there were serious ability-to-pay issues as a result of the absence of the corporate defendant, NII, due to its bankruptcy filing during the course of the Action.

III. Danica Supports Class Counsel's Motion for an Award of Attorneys' Fees and Payment of Expenses

7. Danica believes that Class Counsel's request for an award of attorneys' fees in the amount of 25% of the Settlement Fund is fair and reasonable in light of the work Plaintiffs' counsel performed on behalf of the Class. Danica understands that the PSLRA provides the lead plaintiff the primary role in retaining and overseeing counsel. Danica takes seriously its duty as a lead plaintiff to ensure that the attorneys' fees are fair in light of the result achieved for the Class and reasonably compensate Plaintiffs' counsel for the work involved and the substantial risks they undertook in litigating the Action. Danica has evaluated Class Counsel's fee request by considering the work performed and the substantial recovery obtained for the Class.

8. Danica also believes that the expenses being requested for payment to Plaintiffs' counsel are reasonable, and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action.

9. Based on the foregoing, and consistent with its obligation to the Class to obtain the best result at the most efficient cost, Danica fully supports Class Counsel's motion for an award of attorneys' fees and payment of expenses.

IV. Danica's Request for Reimbursement of Costs and Expenses in Connection with its Representation of the Class

10. Danica understands that reimbursement of a lead plaintiff's reasonable costs and expenses is authorized under Section 21D(a)(4) of the PSLRA, 15 U.S.C. § 78u-4(a)(4). For this reason, in connection with Class Counsel's request for payment of expenses, Danica seeks reimbursement of the costs and expenses that it incurred directly relating to its representation of the Class in the Action. These costs and expenses total \$15,150.00, as detailed below.

11. As Executive Vice President – Law & Compliance for Danica, my responsibilities involve working on large company projects and making sure these projects comply with and meet all legal requirements, overseeing legal actions in which Danica is involved, providing business recommendations and preparing for board of director meetings. In addition, during the course of this Action, I was assisted by Julie Top-Madsen, Senior Legal Counsel at Danica, and Jacob Alexandersen, Chief Portfolio Manager at Danica.

12. The time that Julie Top-Madsen, Jacob Alexandersen and I devoted to the representation of the Class in this Action was time that we otherwise would have expected to spend on other work for Danica and, thus, represented a cost to Danica. Danica seeks reimbursement in the amount of \$15,150.00 for: (a) the time I devoted to supervising and participating in this Action in the amount of \$5,625.00 (25 hours at \$225.00 per hour); (b) the time Julie Top-Madsen devoted to this Action in the amount of

\$6,825.00 (65 hours at \$105 per hour); and (c) the time Jacob Alexandersen devoted to this Action in the amount of \$2,700.00 (20 hours at \$135.00 per hour).² In sum, Danica personnel spent a total of 110 hours on the prosecution of this Action performing the following tasks, among others: (i) communicating with Kessler Topaz in writing, telephonically and through in-person meetings; (ii) reviewing and approving strategic decisions; (iii) reviewing pleadings throughout the course of the litigation; (iv) gathering and reviewing documents in response to discovery requests; (v) traveling to and from Denmark and the United States for Danica's deposition; (vi) preparing for and testifying in a deposition on behalf of Danica; (vii) monitoring the progress of settlement negotiations and evaluating the proposed Settlement Amount; and (viii) reviewing documents related to the Settlement once it was reached.

V. Conclusion

13. In conclusion, Danica was closely involved throughout the prosecution and settlement of the claims in this Action, strongly endorses the Settlement as fair, reasonable and adequate, and believes that the Settlement represents a significant recovery for the Class. Accordingly, Danica respectfully requests that the Court approve Class Representatives' motion for final approval of the proposed Settlement.


14. Danica also supports and respectfully requests the Court approve Class Counsel's motion for an award of attorneys' fees and payment of expenses, and believes

² The hourly rates for myself and the other employees of Danica working on this matter were calculated by dividing our annual salaries by the amount of hours we work in a year.

that Class Counsel's request for fees and expenses represents fair and reasonable compensation for counsel in light of the Settlement reached, the substantial work conducted and skill displayed by Plaintiffs' counsel, and the risks of litigation. And finally, Danica believes its request for reimbursement of costs and expenses incurred in prosecuting the Action on behalf of the Class is fair and reasonable and warrants the Court's approval.

I declare under penalty of perjury under the laws of the United States of America that that the foregoing is true and correct, and that I have authority to execute this declaration on behalf of Danica.

Executed this 12 day of August, 2016,



OLE KROGH PETERSEN
Executive Vice President - Law & Compliance
Danica Pension, Livsforsikringsaktieselskab