

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

In re HEALTHSOUTH  
CORPORATION SECURITIES  
LITIGATION

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This Document Relates To:

*In re HealthSouth Corporation*  
*Stockholder Litigation*, Consolidated Case  
No. CV-03-BE-1501-S.

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) Master File No. CV-03-BE-1500-S  
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) CLASS ACTION  
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) CORRECTED STIPULATION OF  
) SETTLEMENT WITH ERNST &  
) YOUNG LLP  
)  
)

This Corrected Stipulation of Settlement with Ernst & Young LLP ("E&Y"), dated as of March 26, 2009 (the "Stipulation" or "Settlement"), is made and entered into by and among the following settling parties (as defined further in Section IV hereof) to the above-entitled action ("Litigation"): (i) the Stockholder Lead Plaintiffs (on behalf of themselves and each of the Stockholder Settlement Class Members), by and through their counsel of record in the Litigation; and (ii) E&Y, by and through its counsel of record in the Litigation (collectively with the Stockholder Lead Plaintiffs, the "Settling Parties"). The Stipulation is intended by the Settling Parties to fully, finally and forever resolve, discharge and settle the Released Claims, upon and subject to the terms and conditions hereof. This Stipulation does not release any claims of the Stockholder Class against the Non-Settling Defendants or any claims of the Bondholder Class, the Derivative Plaintiffs and/or HealthSouth Corporation. This Stipulation also does not, and is not intended to, change or modify any of the terms of the Stipulation of Partial Settlement, filed with the Court on September 26, 2006 (the "HealthSouth Settlement").

## **I. THE LITIGATION**

Currently pending before the United States District Court for the Northern District of Alabama (the "Court") is a consolidated action on behalf of all Persons who, between April 24, 1997 and March 18, 2003, purchased or otherwise acquired the stock or options of HealthSouth Corporation ("HealthSouth") ("Stockholder Class") and a separate consolidated action on behalf of a bondholder class of all Persons who purchased or otherwise acquired bonds, notes or other debt instruments issued by HealthSouth during the period between July 30, 1999 and March 18, 2003.

The Stockholder Lead Plaintiffs are New Mexico State Investment Council and the Educational Retirement Board of New Mexico ("New Mexico"), Central States SE and SW Areas Pension, with other funds ("Central States"), and the Michigan Public School Employees'

Retirement System, the State of Michigan Employees' Retirement System, the State Police Retirement System and the Judges Retirement System ("Michigan").

Lead Counsel for the Stockholder Settlement Class and the Stockholder Class are Coughlin Stoia Geller Rudman & Robbins LLP ("Coughlin Stoia"), counsel for Central States, and Labaton Sucharow LLP ("Labaton Sucharow"), counsel for New Mexico ("Stockholder Plaintiffs' Lead Counsel").

The operative complaints in the Litigation are the Joint Third Amended Consolidated Class Action Complaint for Violations of Federal Securities Laws [Factual Basis], filed April 30, 2007; and the Second Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws [Legal Theories and Claims], filed by the Stockholder Class on April 30, 2007 (together, the "Complaint"). The Complaint alleges violations of §§10(b), 14(a), 20(a) and 20A of the Securities Exchange Act of 1934, and Rules 10b-5 and 14a-9 promulgated thereunder by the SEC. The Complaint names as Defendants HealthSouth's founder and former Chief Executive Officer, Richard M. Scrushy, HealthSouth's former outside accountants, E&Y, one of the Company's investment banks, UBS AG ("UBS"), together with certain of UBS's affiliated entities, specifically UBS Warburg LLC and PaineWebber, Inc., now d/b/a UBS Financial Services, Inc. (subsidiary of UBS AG), and three individuals who were employees of UBS during the relevant time period.

The Complaint alleges, among other things, that during the relevant period, at the direction of senior HealthSouth management, Defendants implemented a scheme to falsify HealthSouth's financial statements in order to meet or exceed Wall Street expectations.

On September 15, 2004, all non-stayed Defendants moved to dismiss the Complaint in its entirety. The Stockholder Lead Plaintiffs filed oppositions to the motions to dismiss in

November 2004. Defendants filed reply briefs in support of their motions to dismiss on September 16, 2005. Hearings on certain of the motions were held on January 18, 2006, February 9, 2006 and June 28, 2006.

Between March and June 2006, the Court issued orders granting and denying Defendants' motions to dismiss. With regard to E&Y, on June 14, 2006, the Court partially granted and denied its motion to dismiss the Stockholder Action on statute of limitations grounds. In accordance with that Order, the Stockholder Settlement Class's claims against E&Y begin on March 30, 2000.

In early 2006, Stockholder Lead Plaintiffs, together with the lead plaintiffs representing the Bondholder Class, negotiated a settlement valued at \$445 million with HealthSouth and several of HealthSouth's former officers and directors. A Stipulation of Partial Settlement was filed with the Court on September 26, 2006. On January 11, 2007, the Court entered a Partial Final Judgment and Order of Dismissal with Prejudice and approved the proposed settlement with HealthSouth.

On October 3, 2007, the Stockholder Lead Plaintiffs moved for class certification and appointment as class representatives. The motion has been fully briefed and oral argument will be held on March 27, 2009.

There has been extensive fact and expert discovery in the consolidated actions so far. In the course of the litigation, E&Y has produced and made available to plaintiffs more than 1.5 million pages of documents, and the total document production by parties and non-parties amounts to approximately 85 million pages. The parties have deposed approximately 132 different witnesses, including eleven witnesses associated with E&Y. In addition, to date, the

parties have exchanged more than ten expert reports, including two produced by E&Y. Five expert depositions have also been taken to date.

On or about February 24, 2009, with the substantial assistance of settlement counsel for E&Y, former federal judge Layn R. Phillips, and after numerous months of settlement negotiations, the Stockholder Lead Plaintiffs entered into a Term Sheet, setting forth the agreement in principle to settle the Litigation against E&Y.

## **II.     SETTLING DEFENDANT'S DENIALS OF WRONGDOING AND LIABILITY**

The Settling Defendant expressly has denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation. The Settling Defendant also continues to believe the claims asserted against it in the Complaint are without merit. Nonetheless, the Settling Defendant has agreed to enter into the settlement solely to avoid the expense, distraction, time, and uncertainty associated with continuing the Litigation.

The Settling Defendant has concluded that further conduct of the Litigation would be protracted and expensive and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation. The Settling Defendant also has taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as this Litigation. The Settling Defendant has, therefore, determined that it is desirable and beneficial to it that the Litigation be settled in the manner and upon the terms and conditions set forth in this Stipulation.

## **III.    CLAIMS OF THE STOCKHOLDER LEAD PLAINTIFFS AND BENEFITS OF SETTLEMENT**

The Stockholder Lead Plaintiffs believe that the claims asserted in the Litigation against the Settling Defendant have merit and that the evidence developed to date supports those claims.

However, the Stockholder Lead Plaintiffs recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation against the Settling Defendant through trial and through appeals. The Stockholder Lead Plaintiffs also have taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as this Litigation, as well as the difficulties and delays inherent in such litigation. The Stockholder Lead Plaintiffs also are mindful of the inherent difficulties of proof under and possible defenses to the securities law violations asserted in the Litigation. The Stockholder Lead Plaintiffs believe that the settlement set forth in the Stipulation confers substantial benefits upon the Stockholder Settlement Class. Based on their evaluation, the Stockholder Lead Plaintiffs and Lead Counsel for the Stockholder Settlement Class have determined that the settlement set forth in this Stipulation is in the best interests of the Stockholder Lead Plaintiffs and the Stockholder Settlement Class.

#### **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Stockholder Lead Plaintiffs (for the Stockholder Settlement Class) and the Settling Defendant, by and through their respective counsel or attorneys of record, that, subject to the approval of the Court, the Released Claims shall be finally and fully compromised, settled and released, and the Litigation shall be dismissed with prejudice, as to all Settling Parties, upon and subject to the terms and conditions of the Stipulation, as follows.

##### **1. Definitions**

As used in the Stipulation the following terms have the meanings specified below:

1.1 “Authorized Claimant” means any Stockholder Settlement Class Member whose claim for recovery has been allowed pursuant to the terms of the Stipulation.

1.2 “Bondholder Action” means the actions consolidated under the caption *In re HealthSouth Corporation Bondholder Litigation*, No. 03-BE-1502-S.

1.3 “Bondholder Class” means all Persons who, during the period beginning July 30, 1999 through and including March 18, 2003, purchased or otherwise acquired the March 1998 Registered and Unregistered Notes, the June 1998 Registered and Unregistered Notes, the September 2000 Registered and Unregistered Notes, the February 2001 Registered and Unregistered Notes, the September 2001 Registered and Unregistered Notes, or the May 2002 Registered and Unregistered Notes and who were damaged thereby; and all Persons who purchased or otherwise acquired the September 2000, February 2001, September 2001, or May 2002 Registered Notes of HealthSouth pursuant or traceable to their respective registration statements and who were damaged thereby. Excluded from the Bondholder Class are (a) current or former defendants; (b) any officer or director during the bondholder class period of HealthSouth or any of its subsidiaries or affiliates; (c) members of the immediate families of any of the current or former individual defendants; (d) any entity on which any current or former defendant has or had a controlling interest; and (e) the legal representatives, heirs, successors or assigns of any such excluded party.

1.4 “Claims Administrator” means the firm of Rust Consulting, Inc.

1.5 “Defendants” means the Settling Defendant and the Non-Settling Defendants.

1.6 “Derivative Plaintiffs” mean the plaintiffs bringing the following derivative actions: (1) *Tucker v. Scrushy, et al.*, CV 02 5212 (Circuit Court of Jefferson County, Alabama); (2) *Dennis Family Trust v. HealthSouth Corp.*, CV-98-6592 (Ala. Cir. Ct.); (3) the federal consolidated derivative cases, including but not limited to *In re HealthSouth Corp. Derivative Litig.*, CV-02-BE-2565 (N.D. Ala.); (4) *In re HealthSouth Corp. Shareholder Litig.*, Consol. CA

No. 19869 (Del. Ch.); and (5) any action, no matter how styled, that brings derivative claims arising from the same subject matter as the Litigation or any of the foregoing actions.

1.7 “Effective Date” means the first date by which all of the events and conditions specified in ¶7.1 of the Stipulation have been met and have occurred.

1.8 “Escrow Agent” means Labaton Sucharow LLP and Coughlin Stoia Geller Rudman & Robbins LLP, and their respective successors.

1.9 “E&Y” means Ernst & Young LLP.

1.10 “Federal Actions” means the Stockholder Action and the Bondholder Action.

1.11 “Federal Plaintiffs” means the Bondholder Class and the Stockholder Class.

1.12 “Final” means when the last of the following with respect to the Final Judgment and Order of Dismissal with Prejudice as to Ernst & Young LLP (“Judgment”) approving the Stipulation, substantially in the form of Exhibit B hereto, shall occur: (i) the expiration of three (3) business days after the time to file a motion to alter or amend the Judgment under Federal Rule of Civil Procedure 59(e) has passed without any such motion having been filed; (ii) the expiration of three (3) business days after the time in which to appeal the Judgment has passed without any appeal having been taken (which date shall be deemed to be thirty-three (33) days following the entry of the Judgment, unless the date to take such an appeal shall have been extended by Court order or otherwise, or unless the 33rd day falls on a weekend or a Court holiday, in which case the date for purposes of this Stipulation shall be deemed to be the next business day after such 33rd day); and (iii) if such motion to alter or amend is filed or if an appeal is taken, three (3) business days after the determination of that motion or appeal in such a manner as to permit the consummation of the settlement substantially in accordance with the terms and conditions of this Stipulation. For purposes of this paragraph, an “appeal” shall not



include any appeal that concerns only the issue of attorneys' fees and reimbursement of expenses or the Plan of Allocation of the Settlement Fund. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any plan of allocation and/or application for attorneys' fees, costs or expenses, shall not in any way delay or preclude the Judgment from becoming Final.

1.13 "HealthSouth" means HealthSouth Corporation and its officers, directors, subsidiaries, divisions, affiliates, predecessors, and successors.

1.14 "Judgment" means the judgment to be rendered by the Court, substantially in the form attached hereto as Exhibit B.

1.15 "Non-Settling Defendant(s)" means a defendant remaining in the Federal Actions that is not a party to this Settlement, including but not limited to UBS AG, UBS Warburg LLC, PaineWebber, Inc., now d/b/a UBS Financial Services, Inc. (subsidiary of UBS AG), Benjamin D. Lorello, William C. McGahan, Howard Capek, and Richard Scrushy.

1.16 "Notice Order" means the Order described in ¶3.1 hereof.

1.17 "Person" means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assignees.

1.18 "Plan of Allocation" means a plan or formula of allocation of the Settlement Fund whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of expenses of notice and administration of the settlement, Taxes and Tax Expenses, and such attorneys' fees, costs, expenses and interest as may be awarded by the Court ("Net Settlement

Fund”). Any Plan of Allocation is not part of the Stipulation, and Settling Defendant and its Related Parties shall have no responsibility therefore or liability with respect thereto.

1.19 “Related Parties” means, with respect to the Settling Defendant, the immediate family members, heirs, executors, administrators, successors, assigns, present and former partners, employees, officers, directors, attorneys, legal representatives, and agents of each of them, and any person or entity which is or was related to or affiliated with the Settling Defendant or in which the Settling Defendant has or had a controlling interest and the present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, partners, employees, officers, directors, attorneys, assigns, and agents of each of them. Notwithstanding anything in this paragraph, Related Parties shall not include any Non-Settling Defendant.

1.20 “Released Claims” means all claims (including “Unknown Claims” as defined in ¶1.31) and causes of action of every nature and description, whether known or unknown, whether arising under federal, state, common or foreign law, whether brought directly or derivatively, that Stockholder Lead Plaintiffs or any member of the Stockholder Settlement Class in the Stockholder Action asserted in the Complaint, or could have asserted against the Settling Defendant, as a result of purchases, acquisitions, sales, or exercises made during the Settlement Class Period in stock or options issued by HealthSouth (including, without limitation, all claims arising out of or relating to any disclosures, public filings, registration statements or other statements by HealthSouth or any Defendant in the Litigation), based upon or arising out of any facts, allegations or claims set forth in the Complaint. Released Claims do not include any claims of the Stockholder Class against the Non-Settling Defendants or any claims of the Bondholder Class, the Derivative Plaintiffs and/or HealthSouth Corporation. Released Claims

shall not be construed as, and do not change or modify, the release given in the Stipulation of Partial Settlement, filed with the Court September 26, 2006.

1.21 “Released Persons” means the Settling Defendant and each and all of its Related Parties. Released Persons shall not include any Non-Settling Defendant.

1.22 “Settlement Fund” means the principal amount of one hundred nine million dollars (\$109,000,000.00) in cash, to be paid pursuant to ¶2.1 of this Stipulation, plus all interest earned thereon pursuant to ¶¶2.1, 2.2 and 2.6.

1.23 “Settling Defendant” means E&Y.

1.24 “Settling Parties” means, collectively, the Settling Defendant and the Stockholder Lead Plaintiffs, on behalf of themselves and the Stockholder Settlement Class Members.

1.25 “Stockholder Action” means the actions consolidated under the caption *In re HealthSouth Corporation Stockholder Litigation*, No. 03-BE-1501-S.

1.26 “Stockholder Settlement Class” means all Persons who, between March 30, 2000 and March 18, 2003, inclusive (the “Settlement Class Period”), purchased or otherwise acquired the stock or options of HealthSouth and were damaged thereby. Excluded from the Stockholder Settlement Class are current and former defendants, members of the immediate family of any current or former defendants, the directors, officers, any person determined to have violated the securities laws in connection with the Litigation, subsidiaries and affiliates of HealthSouth, any person, firm, trust, corporation, officer, director or other individual or entity in which any current or former defendant has a controlling interest, and the legal representatives, affiliates, heirs, successors-in-interest, or assigns of any such excluded party. Also excluded from the Stockholder Settlement Class are those Persons who timely and validly request exclusion from

the Stockholder Settlement Class pursuant to the Notice of Proposed Settlement of Class Action With Ernst & Young LLP ("Notice") to be disseminated to the class.

1.27 "Stockholder Settlement Class Member" or "Member of the Stockholder Settlement Class" means a Person who falls within the definition of the Stockholder Settlement Class as set forth in ¶1.26 of this Stipulation.

1.28 "Stockholder Lead Plaintiffs" means New Mexico State Investment Council, the Educational Retirement Board of New Mexico, Central States SE and SW Areas Pension, with other funds, and the Michigan Public School Employees' Retirement System, the State of Michigan Employees' Retirement System, the State Police Retirement System and the Judges Retirement System.

1.29 "Stockholder Named Plaintiffs" means International Union of Operating Engineers, Local 132 Pension Plan, Steven Kouba, David Dubrow, Donald Angle, Jack Kennedy, David Willetts, Franklin and Rosalyn Ross, Trustee of the Franklin A. Ross and Rosalyn J. Ross Revocable Living Trust and Kenneth Pittman.

1.30 "Stockholder Plaintiffs' Lead Counsel" means Coughlin Stoia Geller Rudman & Robbins LLP, Patrick J. Coughlin, Keith F. Park, Joy Bull, Jonah Goldstein, 655 West Broadway, Suite 1900, San Diego, CA 92101; and Labaton Sucharow LLP, Thomas A. Dubbs, James W. Johnson, Joseph A. Fonti, Nicole M. Zeiss, 140 Broadway, New York, NY 10005.

1.31 "Unknown Claims" means all claims, demands, rights, liabilities, and causes of action of every nature and description which the Stockholder Lead Plaintiffs or any Stockholder Settlement Class Member do 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 the Released Persons, or might have affected his, her or its

decision not to object to this settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Stockholder Lead Plaintiffs shall expressly waive, and each of the Stockholder Settlement Class Members shall be deemed to have waived, and by operation of the Judgment shall have 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 Stockholder Lead Plaintiffs shall expressly waive and each of the Stockholder Settlement Class Members shall be deemed to have waived, and by operation of the 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 Stockholder Lead Plaintiffs and Stockholder Settlement Class Members 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 Released Claims, but the Stockholder Lead Plaintiffs shall expressly fully, finally and forever settle and release, and each Stockholder Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the 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, 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, 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. The Stockholder Lead Plaintiffs acknowledge, and

the Stockholder Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

**2. The Settlement**

**a. The Settlement Fund**

2.1 In full settlement of the Released Claims and in consideration of the releases specified in ¶¶4.1, 4.3, and 4.5, below, E&Y shall pay or cause to be paid the sum of one hundred and nine million dollars (\$109,000,000.00) for the benefit of the Stockholder Settlement Class to the Escrow Agent within ten (10) business days from entry of the Notice Order by the Court.

**b. The Escrow Agent**

2.2 The Escrow Agent may invest the Settlement Fund deposited pursuant to ¶2.1 hereof in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, or in an account fully insured by the United States Government, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Settlement Fund shall bear all risks related to investment of the Settlement Fund.

2.3 The Escrow Agent shall not disburse the Settlement Fund except as provided in the Stipulation, by an order of the Court, or with the written agreement of counsel for the Settling Defendant.

2.4 Subject to further order and/or direction as may be made by the Court, the Escrow Agent is authorized to execute such transactions on behalf of the Stockholder Settlement Class Members as are consistent with the terms of the Stipulation.

2.5 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

2.6 Within five (5) days after payment to the Escrow Agent pursuant to ¶2.1 hereof, the Escrow Agent may establish a "Notice and Administration Fund," and may deposit up to \$1,000,000 from the Settlement Fund in it. The Notice and Administration Fund may be used by Stockholder Plaintiffs' Lead Counsel without further consent of the Settling Defendant or Order of the Court to pay costs and expenses reasonably and actually incurred in connection with providing notice to the Stockholder Settlement Class, locating Stockholder Settlement Class Members, soliciting claims, assisting with the filing of claims, administering and distributing the Net Settlement Fund to Authorized Claimants, processing Proofs of Claim and Release forms (substantially in the form annexed hereto as Exhibit A-3), and paying escrow fees and costs, if any. The Notice and Administration Fund may also be invested and earn interest as provided for in ¶2.2 of this Stipulation.

**c. Taxes**

2.7 (a) Settling Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1. In addition, Stockholder Plaintiffs' Lead Counsel shall timely cause such elections as necessary or advisable to carry out the provisions of this ¶2.7, including, if necessary, the "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such Treasury regulations promulgated under § 1.468B of the Internal Revenue Code of 1986, as amended (the "Code"). It shall be the responsibility of Stockholder Plaintiffs' Lead Counsel to

timely and properly cause the preparation and delivery of the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of § 1.468B of the Code and the Treasury regulations thereunder, the Claims Administrator shall be designated as the “administrator” of the Settlement Fund. The Claims Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)). Such returns (as well as the election described in ¶2.7(a) hereof) shall be consistent with this ¶2.7 and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.7(c) hereof.

(c) All: (a) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Settling Defendant or its Related Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes (“Taxes”); and (b) expenses and costs incurred in connection with the operation and implementation of this ¶2.7 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶2.7) (“Tax Expenses”), shall be paid out of the Settlement Fund. In no event shall the Settling Defendant or its Related Parties have any responsibility for or liability with respect to the Taxes or the Tax Expenses. The Settlement Fund shall indemnify and hold the Settling Defendant and its Related Parties harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be



treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by Stockholder Plaintiffs' Lead Counsel out of the Settlement Fund without further consent of the Settling Defendant, or prior order from the Court, and the Claims Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amount, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); neither the Settling Defendant nor its Related Parties are responsible therefore nor shall they have any liability with respect thereto. The parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.7.

(d) For the purpose of this ¶2.7, references to the Settlement Fund shall include both the Settlement Fund and the Notice and Administration Fund and shall also include any earnings thereon.

**d. Termination of Settlement**

2.8 In the event that the Stipulation is not approved, or is terminated, canceled, or fails to become effective for any reason, the Settlement Fund (including accrued interest), plus any amount then remaining in the Notice and Administration Fund (including accrued interest), less expenses and Taxes and Tax Expenses incurred or due and owing in connection with the settlement provided for herein shall be refunded E&Y as provided in ¶7.3 below.

**3. Notice Order and Settlement Hearing**

3.1 As soon as practicable after execution of the Stipulation, the Settling Parties shall submit the Stipulation together with its exhibits to the Court and shall apply for entry of the Notice Order, substantially in the form of Exhibit A hereto, requesting, *inter alia*, the preliminary approval of the settlement set forth in the Stipulation and approval for mailing the Notice of

Proposed Settlement of Class Action With Ernst & Young LLP substantially in the form of Exhibit A-1 hereto and publication of a Summary Notice substantially in the form of Exhibit A-2 hereto. The Notice shall include the general terms of the settlement set forth in the Stipulation and the date of the Settlement Hearing.

3.2 Stockholder Plaintiffs' Lead Counsel shall request that after notice is given, the Court hold a hearing (the "Settlement Hearing") and finally approve the settlement of the Stockholder Action as set forth herein.

3.3 The Settling Parties agree to use best efforts to complete the settlement process under an expedited schedule, subject only to the availability of the Court. Specifically, they will seek to have a motion for preliminary approval of the settlement heard on or before March 27, 2009 and a Settlement Hearing no later than June 1, 2009 (60 days following the mailing of notice by the Claims Administrator).

#### **4. Releases, Judgment Credit and Covenant Not to Sue**

4.1 Upon the Effective Date, as defined in ¶1.7 hereof, the Stockholder Lead Plaintiffs and the Stockholder Settlement Class 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 Stockholder Lead Plaintiffs or the Stockholder Settlement Class Members execute and deliver a Proof of Claim and Release form, if applicable.

4.2 The Proof of Claim and Release form to be executed by Stockholder Settlement Class Members, who have not previously submitted a Proof of Claim and Release form in connection with the HealthSouth Settlement, shall release all Released Claims against the Released Persons.

4.3 Upon the Effective Date, as defined in ¶1.7 hereof, each of the Released Persons shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged each and all of the Stockholder Lead Plaintiffs, Stockholder Plaintiffs' Lead Counsel and Stockholder Settlement Class Members from all claims (including Unknown Claims) arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution of the Stockholder Action or the Released Claims.

4.4 The Stockholder Lead Plaintiffs and the Stockholder Settlement Class agree and covenant not to file or pursue any claim against the Settling Defendant between the date of this Stipulation and the Effective Date. The parties agree that, if the Settlement does not become Final, the period of time between the date of this Stipulation and the Effective Date shall not be counted for purposes of any defense based on passage of time.

4.5 The Settling Parties have negotiated the following bar order and judgment reduction provision to be included, in substantially the following form, in the Judgment:

(a) The Released Persons are hereby released and discharged from all claims for indemnity or contribution or any other claim, however denominated, against the Released Persons where the injury to the Person bringing the claim is, or is measured by, that Person's liability and/or settlement payment to the Stockholder Lead Plaintiffs, the Stockholder Settlement Class or any Stockholder Settlement Class Member, that have been or may hereafter be brought by any Person, whether arising under state, federal, foreign or common law as claims, cross-claims, counterclaims, or third-party claims, in any court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere, based upon, arising out of, relating to, or in connection with the Released Claims (collectively, the "Barred Claims"),

and all such claims are permanently barred and any Person permanently enjoined from bringing any such claim.

(b) Accordingly, to the full extent provided by Section 21D-4(f)(7)(A) of the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(f)(7)(A), the Court hereby bars all Barred Claims: (a) against the Released Persons; and (b) by the Released Persons against any Person, other than any Person whose liability to the Stockholder Settlement Class has been extinguished pursuant to this Settlement.

(c) Any final verdict or judgment obtained by or on behalf of the Stockholder Lead Plaintiffs, the Stockholder Settlement Class or any Stockholder Settlement Class Member against any Person, other than the Released Persons, relating to the Released Claims, shall be reduced in accordance with the PSLRA and applicable law. However, Stockholder Settlement Class Members’ participation in any HealthSouth recovery from E&Y shall not be reduced as a result of this provision.

**5. Administration and Calculation of Claims, Final Awards and Supervision and Distribution of Settlement Fund**

5.1 The Claims Administrator shall administer and calculate the claims submitted by Stockholder Settlement Class Members.

5.2 The Settlement Fund shall be applied as follows:

(a) to pay Stockholder Plaintiffs’ Lead Counsel’s attorneys’ fees and expenses with interest thereon (the “Fee and Expense Award”) and any costs and expenses awarded to the plaintiffs by the Court, pursuant to the PSLRA, when, if and to the extent allowed by the Court;

(b) to pay all the costs and expenses reasonably and actually incurred in connection with providing notice, locating Stockholder Settlement Class Members, soliciting Stockholder Settlement Class claims, assisting with the filing of claims, administering and

distributing the Net Settlement Fund to Authorized Claimants, processing Proofs of Claim and Release forms, and paying escrow fees and costs, if any;

(c) to pay the Taxes and Tax Expenses described in ¶2.7 hereof; and

(d) to distribute the balance of the Net Settlement Fund to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

5.3 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the terms of this Stipulation.

5.4 Within one hundred-twenty (120) days after such time as set by the Court, each Person claiming to be an Authorized Claimant who has not previously submitted a Proof of Claim and Release form in connection with the HealthSouth Settlement shall be required to submit to the Claims Administrator a completed Proof of Claim and Release form, substantially in a form approved by the Court, signed under penalty of perjury and supported by such documents as are specified in the Proof of Claim and Release and as are reasonably available to the Authorized Claimant.

5.5 Except as otherwise ordered by the Court, all Stockholder Settlement Class Members who fail to timely submit a Proof of Claim and Release form (if applicable) within such period, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments pursuant to the Stipulation and the settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment. Notwithstanding the foregoing, Stockholder Plaintiffs' Lead Counsel may, in their discretion, accept for processing late

submitted claims so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

5.6 The Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with a Plan of Allocation described in the Notice and approved by the Court. If there is any balance remaining in the Net Settlement Fund after six (6) months from the date of distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise), Stockholder Plaintiffs' Lead Counsel shall, if feasible and economical, reallocate such balance among Authorized Claimants, who deposited the checks sent in the initial distribution, in an equitable and economic fashion. Thereafter, any balance which still remains in the Net Settlement Fund shall be donated to an appropriate non-profit organization, without further order of the Court.

5.7 This is not a claims-made settlement. Accordingly, once all conditions of the Stipulation are satisfied and the settlement becomes Final, no portion of the Settlement Fund will be returned to the Settling Defendant. The Settling Defendant and its Related Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the distribution of the Net Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith.

5.8 No Person shall have any claim against Stockholder Lead Plaintiffs, the Escrow Agent, Stockholder Plaintiffs' Lead Counsel, the Claims Administrator or other entity designated by Stockholder Plaintiffs' Lead Counsel based on distributions made substantially in accordance with the Stipulation and the settlement contained herein, a Court-approved Plan of Allocation, or further order(s) of the Court.

5.9 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the Stipulation and the settlement set forth therein, or any other orders entered pursuant to the Stipulation.

**6. Plaintiffs' Counsel's Attorneys' Fees and Reimbursement of Expenses**

6.1 Stockholder Plaintiffs' Lead Counsel may, upon notice to Stockholder Settlement Class Members as approved by the Court, on behalf of plaintiffs' counsel in the Stockholder Action, submit an application (the "Fee and Expense Application") for distribution to them from the Settlement Fund of: (a) an award of reasonable attorneys' fees from the Settlement Fund; plus (b) expenses, including the fees of any experts or consultants, incurred in connection with prosecuting the Stockholder Action, plus any interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by the Settlement Fund (until paid). Stockholder Plaintiffs' Lead Counsel reserves the right to make additional applications for fees and expenses incurred.

6.2 The attorneys' fees and expenses, as awarded by the Court, shall be paid to Stockholder Plaintiffs' Lead Counsel from the Settlement Fund, as ordered, immediately after the Court executes an order awarding such fees and expenses. Stockholder Plaintiffs' Lead Counsel shall thereafter allocate the attorneys' fees in a manner in which they in good faith believe reflects the contributions of other plaintiffs' counsel to the prosecution and settlement of

the Stockholder Action. In the event that the Effective Date does not occur, or the Judgment or the order making the Fee and Expense Award is reversed or modified, or the Stipulation is canceled or terminated for any other reason, and in the event that the Fee and Expense Award has been paid to any extent, then any plaintiffs' counsel receiving such fees shall within five (5) business days from receiving notice from the Settling Defendant's counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund the fees and expenses previously paid to them from the Settlement Fund plus interest thereon at the same rate as earned on the Settlement Fund in an amount consistent with such reversal or modification. Each such plaintiffs' counsel's law firm, as a condition of receiving such fees and expenses, on behalf of itself and each partner and/or shareholder of it, agrees that the law firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

6.3 The procedure for and the allowance or disallowance by the Court of any application by Stockholder Plaintiffs' Lead Counsel for attorneys' fees and expenses, including the fees of experts and consultants, to be paid out of the Settlement Fund, are not part of the settlement set forth in the Stipulation, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement set forth in the Stipulation, and any order or proceeding relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment approving the Stipulation and the settlement of the Stockholder Action set forth herein.

6.4 Settling Defendant and its Related Parties shall have no responsibility for or liability with respect to any payment of attorneys' fees and expenses to Stockholder Plaintiffs' Lead Counsel over and above payment from the Settlement Fund.



6.5 Settling Defendant and its Related Parties shall have no responsibility for or liability with respect to the allocation among plaintiffs' counsel, and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Stockholder Action, and Settling Defendant and its respective Related Parties take no position with respect to such matters.

**7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination**

7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

(a) E&Y has timely made its contribution to the Settlement Fund as required by ¶2.1 hereof;

(b) E&Y has not exercised its option to terminate the Stipulation pursuant to ¶¶7.2, 7.4 or 7.6 hereof;

(c) the Court has entered the Notice Order, as required by ¶3.1 hereof;

(d) the Court has entered the Judgment, or a judgment substantially in the form of Exhibit B hereto;

(e) The Court has entered the Bar Order as set forth in Exhibit B hereto, or a substantial equivalent acceptable to the Settling Defendant;

(f) the Judgment has become Final, as defined in ¶1.12 hereof.

7.2 Upon the occurrence of all of the events referenced in ¶7.1 hereof, any and all remaining interest or right of the Settling Defendant in or to the Settlement Fund, if any, shall be absolutely and forever extinguished. If all of the conditions specified in ¶7.1 hereof are not met, then the Stipulation shall be canceled and terminated, subject to ¶7.4, hereof unless Stockholder Plaintiffs' Lead Counsel and counsel for the Settling Defendant mutually agree in writing to proceed with the Stipulation.

7.3 Unless otherwise ordered by the Court, in the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, within five (5) business days after written notification of such event is sent by counsel for the Settling Defendant or Stockholder Plaintiffs' Lead Counsel to the Escrow Agent, subject to the terms of ¶2.8 hereof, the Settlement Fund (including accrued interest), plus any amount then remaining in the Notice and Administration Fund (including accrued interest), less expenses and any costs which have either been disbursed pursuant to ¶2.6 hereof or are determined to be chargeable to the Settlement Fund including Taxes and Tax Expenses, pursuant to ¶2.7, shall be refunded by the Escrow Agent to E&Y. At the request of counsel for the Settling Defendant, the Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, to E&Y.

7.4 In the event that the Stipulation is not approved by the Court, or the settlement set forth in the Stipulation is terminated, or the Effective Date does not occur, or the Stipulation otherwise fails to become effective in accordance with its terms, the Settling Parties shall be restored to their respective positions in the Stockholder Action as of February 24, 2009. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶2.7, 2.8, 7.3, 7.4 and 7.5 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in the Federal Actions or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, including but not limited to any order certifying a Stockholder Settlement Class in the Stockholder Action. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any

attorneys' fees, costs, expenses and interest awarded by the Court to Stockholder Plaintiffs' Lead Counsel shall constitute grounds for cancellation or termination of the Stipulation.

7.5 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to its terms, neither the Stockholder Lead Plaintiffs nor Stockholder Plaintiffs' Lead Counsel shall have any obligation to repay any amounts actually and properly disbursed from the Notice and Administration Fund. In addition, any expenses already incurred and properly chargeable to the Settlement Fund at the time of such termination or cancellation, but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Stipulation prior to the balance being refunded in accordance with ¶¶2.8 and 7.3 hereof.

7.6 If prior to the Settlement Hearing, the aggregate number of HealthSouth common stock shares purchased or acquired by Persons who would otherwise be Members of the Stockholder Settlement Class, but who request exclusion from the Stockholder Settlement Class, exceeds the sum specified in a separate supplemental agreement between the Stockholder Lead Plaintiffs and E&Y (the "Supplemental Agreement"), E&Y shall have, in its sole and absolute discretion, the option to terminate this Stipulation in accordance with the procedures set forth in the Supplemental Agreement. The Supplemental Agreement will not be filed with the Court unless required by court rule or unless and until a dispute as between the Stockholder Lead Plaintiffs and E&Y concerning its interpretation or application arises.

## **8. Class Certification**

8.1 For purposes of this Stipulation only, the Settling Parties will stipulate to certification of the Stockholder Settlement Class, as defined herein and the appointment of the Stockholder Lead Plaintiffs, as class representatives of the Stockholder Settlement Class. The Settling Defendant expressly reserves the right to contest class certification in the event that this Stipulation is not approved by the Court, or the settlement set forth in this Stipulation is

terminated pursuant to its terms, or the Effective Date does not occur, or the Stipulation otherwise does not become effective for any reason.

**9. No Admission of Wrongdoing**

9.1 This Stipulation, whether or not consummated, and any negotiations, discussions or proceedings in connection herewith shall not be:

(a) offered or received against the Settling Defendant as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by the Settling Defendant of the truth of any fact alleged by Stockholder Settlement Class Members or the validity of any claim that has been or could have been asserted in the Federal Actions or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Federal Actions or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Settling Defendant;

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

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

(d) construed against the Settling Defendant, Federal Plaintiffs, the Bondholder Class, the Stockholder Settlement Class or the Stockholder 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.

## **10. Miscellaneous Provisions**

10.1 The Settling Parties (a) acknowledge that it is their intent to consummate this agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of the Stipulation.

10.2 This Stipulation and the exhibits attached hereto constitute the entire agreement between the Settling Parties as to the subject matter hereof and supersedes any prior or contemporaneous written or oral agreements or understandings between the Settling Parties as to the subject matter hereof, including the HealthSouth Term Sheet as of February 24, 2009. No modification or amendment of this Stipulation shall be valid unless made in writing and signed by or on behalf of each of the Settling Parties hereto. No representations, warranties or inducements have been made to any party concerning the Stipulation or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents. Except as otherwise provided for herein, each party shall bear his, her or its own costs. The settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Judgment will contain a finding that during the course of the Stockholder Action, the parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11. The Settling Parties agree that the amount paid to the Settlement Fund and the other terms of the settlement were negotiated in good faith by the Settling Parties and reflect a settlement that was reached

voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Stockholder Action was brought or defended in bad faith or without a reasonable basis.

10.3 The Settling Defendant and/or its Related Parties may file the Stipulation and/or the Judgment in any action 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 other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.4 All agreements made and orders entered during the course of the Federal Actions relating to the confidentiality of information shall survive this Stipulation.

10.5 All of the exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

10.6 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successor's in-interest.

10.7 Stockholder Plaintiffs' Lead Counsel, on behalf of the Stockholder Settlement Class, are expressly authorized by the Stockholder Lead Plaintiffs to take all appropriate action required or permitted to be taken by the Stockholder Settlement Class pursuant to the Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Stockholder Settlement Class which they deem appropriate.

10.8 Each counsel or other Person executing the Stipulation or any of its exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

10.9 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court.

10.10 The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

10.11 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Stipulation.

10.12 The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver by any other party or a waiver of any other prior or subsequent breach of this Stipulation.

10.13 E&Y warrants as to itself that, as to the payments made by or on behalf of itself, at the time of such payments that E&Y made or caused to be made pursuant to ¶2.1 above, it was not insolvent nor did nor will the payments required to be made by or on behalf of it render E&Y insolvent within the meaning of and/or for the purposes of United States Bankruptcy Code, including §§101 and 547 thereof. This warranty is made by E&Y and not by counsel for E&Y.

10.14 If a case is commenced in respect of E&Y under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of E&Y to be a preference, voidable transfer, fraudulent transfer or similar transaction, and any portion thereof is required to be returned, and such amount is not promptly deposited to the Settlement Fund by others, then, at the election of Stockholder Plaintiffs' Lead Counsel, the parties shall jointly

move the Court to vacate and set aside the releases given and the Judgment entered in favor of such Settling Defendant pursuant to this Stipulation, which releases and Judgments shall be null and void, and the parties so affected shall be restored to their respective positions in the Stockholder Action as of February 24, 2009, and any amount in the Settlement Fund paid by or on behalf of E&Y shall be returned as provided herein.

10.15 The rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Alabama without giving effect to that state's choice-of-law principles.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys dated as of March 26, 2009.

RILEY & JACKSON, P.C.  
ROBERT R. RILEY, JR.



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Handwritten signature of Bruce R. Braun in black ink, featuring a stylized 'B' and 'R' followed by a horizontal line and the letters 'SHE'.

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