

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 5/30/08

IN RE INTERNATIONAL BUSINESS MACHINES
CORP. SECURITIES LITIGATION

Civil Action No. 1:05-cv-6279 (AKH)
ECF CASE

**~~PROPOSED~~ ORDER PRELIMINARILY APPROVING
SETTLEMENT AND PROVIDING FOR NOTICE TO THE CLASS**

WHEREAS:

A. Plaintiffs, Joseph Anchinovski, Nilda Anchinovski and Donald Rubenstein (collectively, "Plaintiffs") on behalf of themselves and as representatives of the Class, and defendants International Business Machines Corporation ("IBM" or the "Company"), and Mark Loughridge (collectively, the "Defendants"), have entered into a settlement of the claims asserted in the above-captioned class action (the "Action"), the terms of which are set forth in a Stipulation and Agreement of Settlement dated May 22, 2008 (the "Stipulation");

B. Plaintiffs and Defendants have moved pursuant to Rule 23(e) of the Federal Rules of Civil Procedure for an Order preliminarily approving the proposed Settlement and directing the issuance of notice to the Class in accordance with the terms of the Stipulation; and

C. The Court, on March 14, 2007, certified a class (the "Class") of all persons or entities who purchased or otherwise acquired common stock of IBM between April 5, 2005, and April 14, 2005, inclusive (the "Class Period"), and who were damaged thereby. Excluded from the Class are any parents, subsidiaries, affiliates, officers, or directors of defendant IBM and their immediate families; any entity in which any excluded person has a controlling interest and the legal representatives, heirs, successors and assigns of any excluded person. Also

excluded from the Class are all persons and entities who have previously properly excluded themselves from the Class pursuant to the Notice of Pendency of Class Action or who exclude themselves pursuant to the instructions set forth in the proposed Notice of Proposed Settlement of Class Action, Application for Attorneys Fees and Expenses and Fairness Hearing (the "Notice"), a list of whom will be attached to the Judgment when it is submitted to the Court in connection with the Fairness Hearing.

D. The Court having read and considered the Stipulation and exhibits thereto, including the proposed Notice, the proposed Proof of Claim and Release ("Proof of Claim"), the proposed Summary Notice of Proposed Settlement of Class Action, Application for Attorneys' Fees and Expenses and Fairness Hearing ("Summary Notice") and the proposed Judgment and Order of Dismissal ("Judgment"), and finding that substantial and sufficient grounds exist for entering this Order Preliminarily Approving Settlement and Providing for Notice to the Class ("Preliminary Approval Order");

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court, for purposes of this Preliminary Approval Order, adopts all defined terms as set forth in the Stipulation. Any inconsistencies between the Stipulation and the Notice will be controlled by the language of the Stipulation.

2. The Court preliminarily approves the proposed Settlement of this consolidated class action on the terms set forth in the Stipulation as being fair, reasonable and adequate, subject to further consideration at a hearing to be held before this Court on Sept. 9, 2008 at 3:00 p.m. in the Daniel Patrick Moynihan United States Courthouse, Courtroom 14D, 500 Pearl Street, New York, New York 10007 (the "Fairness Hearing") to determine (i) whether the proposed settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable and adequate and should be approved by the

Court and whether the proposed Plan of Allocation of the Net Settlement Amount is fair, reasonable and adequate and should be approved by the Court; (ii) whether a judgment substantially in the form of Exhibit B to the Stipulation should be entered herein; and (iii) whether Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of expenses, including an award of costs and expenses to the Plaintiffs for their efforts in prosecuting the Action (the "Fee and Expense Request") should be granted.

3. The Court approves the form, substance and requirements of the Notice, Proof of Claim, and Summary Notice, attached hereto as Exhibits 1, 2 and 3, and finds that the procedures established for mailing and distribution of such Notice and Proof of Claim and for publishing the Summary Notice, substantially in the manner set forth in paragraphs 5 and 6 hereof constitute the best notice practicable under the circumstances and are in full compliance with the notice requirements of due process, Fed. R. Civ. P. 23 and Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7).

4. The Court appoints A.B. Data, Ltd. (the "Claims Administrator") to administer the notice procedure as well as the processing of claims under the supervision of Plaintiffs' Counsel, as more fully set forth below.

5. Within twenty-eight (28) calendar days of entry of this Preliminary Approval Order (the "Notice Date"), Plaintiffs' Counsel shall cause the Notice and the Proof of Claim, substantially in the forms annexed hereto as Exhibits 1 and 2, to be mailed, first class mail, postage prepaid, to each Class Member at the address of each such person as set forth in the records of IBM or its transfer agent, or who otherwise can be identified through reasonable effort. Defendants' Counsel shall cause IBM's transfer records concerning the identity and address of Class Members and their transactions to be transmitted to the Class Administrator no later than fourteen (14) calendar days after entry of this Preliminary Approval Order.

6. Not later than ten (10) calendar days after the Notice Date, the Claims Administrator shall cause the Summary Notice, substantially in the form annexed hereto as Exhibit 3, to be published once in the national edition of the *Wall Street Journal*.

7. No later than seven (7) days prior to the Fairness Hearing: (a) Plaintiffs' Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration, of the mailings and publication required in paragraphs 5 and 6 of this Preliminary Approval Order; and (b) Defendants' Counsel shall serve on Plaintiffs' Counsel and file with the Court proof, by affidavit or declaration, of their compliance with the notice requirements of 28 U.S.C. § 1715, including the date of the last such notification provided.

8. Plaintiffs' Counsel or their agents shall be responsible for the receipt of all responses from the Class and shall preserve all entries of appearance, Proofs of Claim, and all other written communications from members of the Class, nominees or any other Person in response to the Notice for three (3) years after the Effective Date of the Settlement, or as otherwise ordered by the Court.

9. The costs of notification to Class Members of the proposed Settlement in accordance with paragraphs 5 and 6 hereof, up to \$250,000, including printing and mailing or publication of all required notices, shall be paid out of the Settlement Amount. In accordance with the Stipulation, IBM shall advance to Plaintiffs' Counsel, upon notice and reasonable supporting documentation, up to \$250,000 from the Settlement Amount to pay the costs of notice and settlement administration without further order of the Court. Any amounts advanced pursuant to this paragraph shall not be recoverable by Defendants in the event the proposed Settlement does not become Final.

10. No Person that is not a Plaintiff, Class Member or Plaintiffs' Counsel shall have any right to any portion of, or in the distribution of, the Settlement Amount unless otherwise ordered by the Court or otherwise provided in the Stipulation.

11. Any member of the Class who did not previously submit a timely and valid request for exclusion from the Class in accordance with the Notice of Pendency and who now wishes to be excluded from the Class must submit a request for exclusion, in accordance with the instructions in the Notice, to the Claims Administrator, by first class mail no later than fourteen (14) days before the Fairness Hearing. All persons who submit valid and timely requests for exclusion in the manner set forth in the Notice shall have no rights under the Stipulation, shall not share in the distribution of the Net Settlement Amount, and shall not be bound by any of the terms and provisions of the Stipulation, including the releases provided for in the Judgment, or any proceedings, rulings, orders, and judgments in this Action. The Claims Administrator shall provide copies of requests for exclusion to Plaintiffs' Counsel and Defendants' Counsel within three (3) days after such requests are received, and at least ten (10) days before the Fairness Hearing. Any Class Member who did not, or does not, submit a valid and timely written request for exclusion from the Class in accordance with the instructions in the Notice of Pendency or Notice is a Class Member and shall be bound by all of the terms and provisions of the Stipulation, including the releases provided for in the Judgment, and by all proceedings, rulings, orders, and judgments in this Action, whether favorable or unfavorable to the Class.

12. Any Class Member who wishes to participate in the distributions from the Net Settlement Amount must complete and submit a Proof of Claim in accordance with the instructions contained therein. All Proof of Claim forms must be submitted by first-class mail, postmarked no later than fourteen (14) days before the Fairness Hearing or such other time as

may be set by the Court. If a Class Member chooses to return his, her or its Proof of Claim form in a manner other than by first-class mail, then it must be actually received at the address on the Proof of Claim form no later than fourteen (14) days before the Fairness Hearing or such other date as may be set by the Court. Except as otherwise ordered by the Court, any Class Member who fails to return a timely and signed Proof of Claim form shall be barred from receiving a distribution of the Net Settlement Amount, but shall nevertheless be bound by and subject to the Stipulation, the Judgment, and all proceedings, rulings, orders and judgments in this Action, including, without limitation, the release provided for in the Judgment and the dismissal with prejudice of this Action. Notwithstanding the foregoing, Plaintiffs' Counsel may, in their sole discretion, accept for processing late claims so long as the distribution of the Net Settlement Amount to Authorized Claimants is not materially delayed.

13. Any Class Member may enter an appearance in the Action, individually or through counsel of his, her or its own choice, at his, her or its own expense. Any Class Member who chooses not to enter an appearance in the Action will be represented by Plaintiffs' Counsel.

14. Any Class Member who wishes to object to the fairness, reasonableness or adequacy of the proposed Settlement, to the entry of the Judgment, to the Plan of Allocation or to the Fee and Expense Request must file with the Court (c/o Clerk of the United States District Court for the Southern District of New York, United States Courthouse, 500 Pearl Street, New York, New York 10007), in the manner provided in the Notice and no later than fourteen (14) days before the Fairness Hearing or as the Court may otherwise direct, notice of the Class Member's intention to object, the grounds for such objection, and all papers the Class Member intends to present to the Court in opposition to the proposed Settlement, the Judgment, the Plan of Allocation or the Fee and Expense Request, including proof of all purchases of IBM common stock during the Class Periods and price(s) paid, any legal support the Class Member wishes to

bring to the Court's attention and any evidence the Class Member wishes to introduce in support of his, her or its objection. In addition to filing such papers and materials with the Court, the Class Member must serve copies of such papers and materials, served by hand or by overnight delivery, upon each of the following:

Jonathan M. Plasse
Labaton Sucharow LLP
140 Broadway
New York, NY 10005

*Lead Counsel for Plaintiffs
and the Class*

Evan R. Chesler
Cravath, Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

*Attorneys for Defendants International
Business Machines Corp. and Mark
Loughridge*

15. Any Class Member may file an objection of the nature described in paragraph 14 on his, her or its own or through an attorney hired at his, her or its own expense. Any Class Member who files and serves such an objection may, but is not required to, appear at the Fairness Hearing, either in person or through an attorney hired at the Class Member's own expense. If a Class Member hires an attorney to represent him, her or it at the Fairness Hearing, the attorney must file a notice of appearance with the Clerk of the Court and deliver a copy of that notice to the counsel identified in paragraph 14 hereof at the addresses set forth therein, no later than fourteen (14) days before the date of the Fairness Hearing.

16. Persons who intend to object to the proposed Settlement, the Judgment to be entered herein, the Plan of Allocation or to the Fee and Expense Request and present evidence at the Fairness Hearing must include in their written objections the identity of any witnesses they may seek to call to testify and any exhibits they may seek to introduce into evidence at the Fairness Hearing. Any Party has the right to object to any testimony or other evidence that a person presenting an objection seeks to introduce.

17. Unless the Court otherwise directs, no member of the Class or other Person shall be entitled to object to the proposed Settlement, the Judgment to be entered herein, the Plan of Allocation or the Fee and Expense Request or otherwise be heard, except by serving and filing written objections as described above. Any Person who does not object in the manner prescribed above shall be deemed to have waived such objection in this or any other action or proceeding and shall be bound by all the terms and provisions of the Stipulation and by all proceedings, orders and judgment in the Action.

18. The Court expressly reserves the right to adjourn the Fairness Hearing, or any adjournment thereof, without any further notice other than an announcement at the Fairness Hearing, or any adjournment thereof, and to approve the Stipulation with modification approved by the parties to the Stipulation and without further notice to members of the Class.

19. At or after the Fairness Hearing, the Court shall determine whether the Plan of Allocation and the Fee and Expense Request shall be approved. Neither the Defendants nor Defendants' Counsel shall have any responsibility for any plan of allocation of the Settlement Amount or any application for attorneys' fees or reimbursement of expenses submitted by Plaintiffs' Counsel, and such matters will be considered separately from the fairness, reasonableness and adequacy of the proposed Settlement.

20. If the proposed Settlement, including any amendment made in accordance with the Stipulation, is not approved by the Court or shall not become effective for any reason whatsoever, the proposed Settlement and Stipulation (including any modification thereof), and any action taken or to be taken in connection therewith (including this Preliminary Approval Order and any judgment entered herein) shall be terminated and shall become null and void and of no further force and effect except for Defendants' obligation to pay for Notice and Administration Expenses as set forth in paragraph 7 of the Stipulation, and neither the

Stipulation, nor any provision contained in the Stipulation, nor any action undertaken pursuant thereto, nor the negotiation thereof by any party, shall be deemed an admission or offered or received as evidence at any proceeding in this or any other action or proceeding.

21. All proceedings in the Action, other than proceedings as may be necessary to carry out the terms and conditions of the proposed Settlement, are hereby stayed and suspended until further order of this Court. Pending final determination of whether the proposed Settlement and Stipulation should be approved, Plaintiffs and all members of the Class are barred and enjoined from commencing or prosecuting, instigating or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any of the Settled Plaintiffs' Claims, as defined in the Stipulation.

22. Plaintiffs' Counsel shall submit papers in support of final approval of the proposed Settlement, the Plan of Allocation and their application for an award of attorneys' fees and expenses and an award of reasonable costs and expenses to Plaintiffs by no later than one week prior to the date set for the Fairness Hearing.

23. In any event, neither the Stipulation or any provisions contained in the Stipulation, nor any negotiations, statements or proceedings in connection therewith, shall be construed as, or deemed to be evidence of, any presumption, concession or admission on the part of any of the Plaintiffs, Defendants, any Class Member or any other person or entity with respect to any liability or wrongdoing by them, or any of them as to any claim alleged or asserted in the Action or otherwise, and shall not be offered or received in evidence in any action or proceeding (except in an action or proceeding to enforce the terms and conditions of the Stipulation), or be used in any way as an admission, concession or evidence of any liability or wrongdoing of any nature, and shall not be construed as, or deemed to be evidence of, an admission or concession

that Plaintiffs, their counsel and the members of the Class, or any present or former shareholders of the Company, or any other person or entity, has or has not suffered any damage.

24. If the proposed settlement provided for in the Stipulation is approved by the Court following the Fairness Hearing, a Judgment shall be entered as described in the Stipulation.

25. The administration of the proposed Settlement and the determination of all disputed questions of law and fact with respect to the validity of any claim or right of any person to participate in the distribution of the Settlement Amount shall be under the authority of this Court.

26. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the proposed Settlement.

Dated: New York, New York
May 29 2008


Honorable Alvin K. Hellerstein
United States District Judge

EXHIBIT 1

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION, APPLICATION FOR
ATTORNEYS' FEES AND EXPENSES AND FAIRNESS HEARING**

If you bought International Business Machines Corp. ("IBM") common stock during the period from April 5, 2005, through April 14, 2005, inclusive, you could get a payment from the class action settlement described below.

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

THIS NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION, APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND FAIRNESS HEARING ("NOTICE") RELATES TO A PROPOSED SETTLEMENT OF CLASS CLAIMS ASSERTED IN AN ACTION ENTITLED IN RE INTERNATIONAL BUSINESS MACHINES CORP. SECURITIES LITIGATION, CIVIL ACTION NO. 1:05-cv-6279-AKH (THE "ACTION"), BROUGHT BY PLAINTIFFS JOSEPH AND NILDA ANCHINOVSKI AND DONALD RUBENSTEIN (COLLECTIVELY, "PLAINTIFFS") AGAINST IBM AND MARK LOUGHRIDGE (COLLECTIVELY, "DEFENDANTS").

THIS NOTICE EXPLAINS IMPORTANT RIGHTS YOU MAY HAVE INCLUDING YOUR POSSIBLE RECEIPT OF CASH CONSIDERATION AS A RESULT OF THE PROPOSED SETTLEMENT AND ALSO CONTAINS A PROOF OF CLAIM FORM THAT YOU MUST COMPLETE AND SUBMIT BY _____, 2008 IN ORDER TO BE ELIGIBLE TO SHARE IN THE PROPOSED SETTLEMENT. PLEASE READ IT CAREFULLY!

- The proposed Settlement will provide \$20 million in cash plus interest (the "Settlement Amount") to pay claims of investors who purchased IBM common stock during the period from April 5, 2005, through April 14, 2005, inclusive (the "Class Period") and will be paid, pursuant to the terms discussed in this Notice, to those investors who were allegedly damaged by the misrepresentations and omissions alleged in the lawsuit. Plaintiffs estimate that the average recovery per "damaged" share of common stock would be approximately \$0.51 before the deduction of attorney, notice, administrative, and tax fees, costs, and expenses, as approved by the Court, assuming that all Class members submit valid and timely Proof of Claim forms. The recovery is explained in greater detail below. As is also explained below, the parties do not agree on the average amount of damages that would be recoverable if Plaintiffs prevailed on all claims.
- The proposed Settlement will resolve a lawsuit over whether the Defendants violated federal securities laws as a result of issuing allegedly false and misleading public statements. The Defendants deny all allegations of wrongdoing. Plaintiffs believe that the proposed Settlement is in the best interests of the members of the Class in that it provides a significant benefit now, as compared to the risk that a smaller or no recovery would be achieved after a trial and appeals, possibly years in the future, in connection with which Defendants would have the opportunity to assert substantial defenses to the claims asserted on behalf of the Class.
- Lead Counsel (defined below) intends to apply for an award of attorneys' fees on behalf of itself and other plaintiffs' counsel which assisted in the prosecution of this Action (collectively, "Plaintiffs' Counsel") not to exceed 28% of the Settlement Amount. In addition, Lead Counsel intends to apply for reimbursement of expenses paid and incurred by Plaintiffs' Counsel in connection with the prosecution and resolution of this Action, in an amount not to exceed \$300,000, and for costs and expenses incurred by the Plaintiffs directly related to their representation of the Class, in amounts not to exceed \$50,000 in the aggregate (the "Fee and Expense Application"). If Lead Counsel's Fee and Expense Application is approved by the Court,

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the average recovery per “damaged” share of common stock would be reduced by approximately \$0.15, for an average net recovery per “damaged” share of approximately \$0.36. Plaintiffs’ Counsel have litigated this Action on a contingent-fee basis, and have advanced all of the expenses of litigation with the expectation that if they were successful in recovering money for the Class, they would receive attorneys’ fees and be reimbursed for their expenses from the recovery, as is customary in this type of litigation.

- Your legal rights are affected whether you act, or do not act, so please read this Notice carefully. If you have any questions concerning any matter contained in this Notice, you may contact the Claims Administrator or Plaintiffs’ Lead Counsel, as indicated on page ____.

YOUR LEGAL RIGHTS AND OPTIONS CONCERNING THE PROPOSED SETTLEMENT, FEE AND EXPENSE APPLICATION OR PLAN OF ALLOCATION:	
SUBMIT A PROOF OF CLAIM FORM	The only way to get a payment.
REQUEST EXCLUSION FROM THE CLASS	Get no payment, preserve all rights.
OBJECT	Write to the Court about why you don’t like any of the above.
APPEAR AT A HEARING	Ask to speak in Court about any of the above.
DO NOTHING	Get no payment. Give up rights.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- The issuance of this Notice is not intended to be an expression of the Court’s opinion on the merits of any claim in the Action and the Court in charge of this case still has to decide whether to enter a judgment approving the proposed Settlement. Payments will be made if the Court approves the proposed Settlement, after appeals, objections and other challenges are resolved, and after the completion of all claims processing. Please be patient.
- Any questions regarding the proposed Settlement should be directed to Plaintiffs’ Lead Counsel: Jonathan Plasse, Esq., Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, (888) 753-2796 (toll free), www.labaton.com.

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WHY DID I GET THIS NOTICE?

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and pursuant to an Order of the United States District Court for the Southern District of New York (the "Court"). The purpose of this Notice is to inform you of the proposed Settlement that has been reached in this class action and to inform you of a hearing (the "Fairness Hearing") to be held by the Court to consider the fairness, reasonableness and adequacy of the proposed Settlement and at which the Court may also consider approval of a plan of allocation (the "Plan of Allocation") and the application of Lead Counsel on behalf of all Plaintiffs' Counsel for attorneys' fees and reimbursement of expenses, and on behalf of the Plaintiffs for costs and expenses directly related to their representation of the Class, as described below.

Pursuant to an Order of the Court dated _____, 2008, (the "Preliminary Approval Order"), the Fairness Hearing will be held at _____.m. on _____, 2008, before the Honorable Alvin K. Hellerstein in Courtroom 14D of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007.

RECEIPT OF THIS NOTICE DOES NOT NECESSARILY MEAN THAT YOU ARE A MEMBER OF THE CLASS ("CLASS MEMBER") OR ARE ENTITLED TO RECEIVE PROCEEDS FROM THE PROPOSED SETTLEMENT. IF YOU WISH TO PARTICIPATE IN THE PROPOSED SETTLEMENT, YOU MUST SUBMIT THE ENCLOSED PROOF OF CLAIM FORM TO THE CLAIMS ADMINISTRATOR BY _____, 2008.

WHAT RECOVERY DOES THE PROPOSED SETTLEMENT PROVIDE?

Pursuant to the proposed Settlement described herein, the Defendants have agreed to pay a total of \$20,000,000 plus interest for the benefit of the Class. The Settlement Amount, less notice and administration expenses, attorneys' fees and expenses awarded to Plaintiffs' Counsel and Plaintiffs, any taxes due on the interest earned by the Settlement Amount and any costs incurred in connection with determining the amount of taxes owed (the "Net Settlement Amount") are proposed to be distributed in accordance with the Plan of Allocation, described below. Under the proposed Plan of Allocation, your actual recovery from the Net Settlement Amount will depend on a number of variables including the number of IBM shares of common stock you purchased during the Class Period, when any purchases on April 5, 2005, occurred, whether shares purchased during the Class Period were held as of the close of all trading on April 14, 2005, or sold on or before July 13, 2005, the total number of shares for which timely and valid Proof of Claim forms are submitted by Class members, and the amount of attorneys fees and expenses awarded by the Court. Certain Class members may not be entitled to any recovery depending upon when they purchased and/or sold IBM common stock during the Class Period. See "How Much Will My Payment Be?", on page ____ below.

WHAT MIGHT HAVE HAPPENED IF THE PARTIES HAD NOT AGREED TO THE PROPOSED SETTLEMENT?

Plaintiffs and Defendants do not agree on the average amount of damages per share of IBM common stock that would be recoverable if Plaintiffs were to have prevailed on the Class' claims asserted

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in the Action. The issues on which the parties disagree include, among other things, the amount of damage, if any, allegedly caused by the alleged misrepresentations and omissions at issue in this lawsuit. If Plaintiffs failed to establish any essential legal or factual element of their claims, neither they nor the Class would recover anything from Defendants. Also, if Defendants were successful in proving any of their asserted challenges to recoverable damages, Plaintiffs would likely recover substantially less than the Settlement Amount or recover nothing.

WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?

This securities class action was commenced on July 8, 2005, alleging that Defendants violated the federal securities laws. By Order dated March 29, 2006, pursuant to the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), the Court appointed Joseph and Nilda Anchinovski as Lead Plaintiffs (“Lead Plaintiffs”) and approved their selection of Labaton Sucharow LLP (then known as Labaton Sucharow & Rudoff LLP) as Lead Counsel in the Action (“Lead Counsel”). Lead Plaintiffs together with plaintiff Donald Rubenstein filed their Consolidated Amended Class Action Complaint on May 20, 2006, (the “Complaint”), which alleged, among other things, that: (a) on April 5, 2005, Defendants allegedly made material misrepresentations and omissions concerning IBM’s expected 2005 first quarter earnings, IBM’s expected 2005 first quarter operational performance and the impact of IBM’s decision to begin treating the cost of stock options granted as an expense on its 2005 first quarter financial statements, in violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder; (b) as a result of these alleged misrepresentations and omissions on April 5, 2005, the price of IBM’s common stock was artificially inflated until April 14, 2005; (c) on April 14, 2005, after the close of the market, IBM disclosed its first-quarter results, stating that the Company had experienced operational deficiencies causing it to report lower-than-expected earnings and that the actual impact of expensing stock options in the the first quarter was significantly less than indicated on April 5, 2005. Plaintiffs allege that the statements made by Defendants on April 5, 2005, were false and misleading, were made in violation of federal securities laws and caused damages to Plaintiffs and the other members of the Class. By their Complaint, Plaintiffs sought money damages plus interest, costs and attorneys’ fees from Defendants.

On June 23, 2006, Defendants filed their motion to dismiss the Complaint, which motion was opposed by Plaintiffs. The Court held oral argument on Defendants’ motion to dismiss on September 20, 2006, at which time, following extensive oral argument, the Court denied Defendants’ motion to dismiss the Complaint. Defendants then filed their Answer to the Complaint on October 13, 2006, in which they vigorously denied any liability to the Class and denied that any damages are owed to any Plaintiffs or any Class member. In their Answer, Defendants also asserted a number of affirmative defenses.

On November 6, 2006, Defendants moved to compel Plaintiffs to disclose the identities of confidential witnesses on which they relied in preparing the Complaint. Plaintiffs filed a cross motion seeking a order precluding Defendants from obtaining the identity of these confidential witnesses. After extensive motion practice, the Court held oral argument on December 7, 2006, and denied both motions without prejudice to renew them in the future.

On January 16, 2007, Plaintiffs filed their motion to certify this action as a class action, which motion was opposed by Defendants. After depositions of each of the Plaintiffs and extensive briefing, the Court held oral argument on Plaintiffs’ motion for class certification and by order dated March 14, 2007, certified the action to proceed as a class action on behalf of a class consisting of: All persons and entities that purchased or otherwise acquired the common stock of IBM between April 5, 2005, and April 14, 2005, inclusive, and were damaged thereby, excluding any parents, subsidiaries, affiliates, officers or directors of IBM and their immediate families; any entity in which any excluded person has a controlling

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interest; the legal representatives, heirs, successors and assigns of any excluded person, and any person who has requested exclusion from the Class in accordance with the instructions set forth in a Notice of Pendency of Class Action ("Notice of Pendency") mailed, in accordance with an Order by the Court, on or about May 30, 2007, or who requests exclusion from the Class in accordance with the instructions set forth below. The Court also designated Plaintiffs Joseph and Nilda Anchinovski and Donald Rubenstein as class representatives. The Notice of Pendency advised Class members that the action had been certified to proceed as a class action and of their right to request exclusion from the Class no later than July 30, 2007. If you would like a copy of the Notice of Pendency, it can be downloaded from: www.ibmsecuritieslit.com.

Prior to agreeing to the proposed Settlement, Plaintiffs' Counsel conducted an extensive investigation and discovery relating to the events and transactions underlying the Plaintiffs' claims. Plaintiffs' Counsel also retained and had the benefit of experts in assessing the recoverable damages suffered by the Class. Discovery commenced in November 2006. As a part of the discovery process, Plaintiffs' Counsel analyzed tens of thousands of pages of documents produced by IBM. Plaintiffs' Counsel also conducted depositions of six officers of IBM who were principally responsible for the matters at issue in this lawsuit. These six depositions were completed on September 6, 2007.

WHAT LED UP TO THE PROPOSED SETTLEMENT?

In directing the discovery described above, the Court suggested that the parties consider the possibility of settlement after that discovery had been completed. Accordingly, in mid-September 2007, Plaintiffs proposed mediation and made a settlement demand. Defendants agreed to mediate, and the parties jointly agreed upon a highly experienced, neutral mediator.

In preparation for the mediation, Plaintiffs and Defendants both prepared, submitted to the mediator and exchanged extensive statements as to their respective views with regard to the merits of Plaintiffs' claims. The mediation took place on February 13 and 14, 2008. After approximately 17 hours of negotiations, an agreement-in-principle was finally reached. That agreement was subject to the negotiation of a definitive stipulation of settlement (the "Stipulation of Settlement") and releases in forms satisfactory to counsel for all parties, as well as approval of that Stipulation of Settlement by the Court. Significant additional negotiations were required before the parties were able to agree to all of the terms of the Stipulation of Settlement and the extensive exhibits thereto. The Stipulation of Settlement was executed by counsel for the parties on May __, 2008. The proposed Settlement described in this Notice is therefore the product of extensive arm's-length negotiations between counsel for Plaintiffs and counsel for Defendants.

WHAT ARE THE REASONS FOR THE PROPOSED SETTLEMENT?

Plaintiffs and Plaintiffs' Counsel believe that the claims asserted in the Action have merit. However, they recognize and acknowledge the uncertain outcome of such proceedings and the expense and length of continued proceedings necessary to prosecute this Action through trial and appeals. Following the completion of discovery, Defendants would have moved for summary judgment, which, if successful, would terminate the Action unless reversed on appeal. Plaintiffs and Plaintiffs' Counsel also took into account the issues which would have to be decided by a jury if summary judgment were denied, including whether any statement made by any of the Defendants was false, whether the Defendants acted with scienter (that is, knowingly or recklessly) and whether each of the alleged misrepresentations and omissions were material. Defendants would vigorously dispute each of these

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elements of liability in the event Plaintiffs successfully opposed their summary judgment motion and were entitled to proceed to trial. Plaintiffs' proof of the damages they contend were caused by the alleged misrepresentations and omissions would also be vigorously contested by Defendants at trial. Plaintiffs and Plaintiffs' Counsel have also taken into account the uncertain outcome and trial risk in complex actions such as this Action. Furthermore, a verdict in favor of Plaintiffs and the Class would almost certainly have been appealed. Considering these factors, which could have led to a smaller recovery or no recovery at all after a trial and appeals, possibly years in the future, and balancing them against the certain and significant benefits that the Class will receive as a result of the proposed Settlement, Plaintiffs and Plaintiffs' Counsel determined that the proposed Settlement described herein is fair, reasonable and adequate and that it is in the best interests of the Class to settle the Action on the terms described herein.

WHY HAVE THE DEFENDANTS AGREED TO THE PROPOSED SETTLEMENT?

Defendants have denied and expressly continue to deny any wrongdoing, fault, liability, violation of law or damage alleged in the Complaint and do not admit or concede any wrongdoing, fault, liability, violation of law or damage in connection with any facts or claims that have been or could have been alleged against them by the Plaintiffs. Defendants, while affirmatively denying wrongdoing, fault and liability, consider it desirable and in their best interest that this action be dismissed under the terms of the proposed Settlement in order to avoid further expense, uncertainty and distraction, and protracted litigation.

HOW MUCH WILL MY PAYMENT BE?

If the proposed Settlement is approved by the Court and you are entitled to a payment, your share of the Net Settlement Amount will depend on the number of valid Proof of Claim Forms that Class members submit, the number of shares of IBM common stock you purchased, and when you purchased or sold those shares, as described in the Plan of Allocation that is described in this Notice on pages ____.

By following the Plan of Allocation, you can calculate your "Recognized Loss." The Claims Administrator will distribute the Net Settlement Amount according to the Plan of Allocation after all Proof of Claim forms have been processed, the proposed Settlement has been approved by the Court, and any appeals, objections and other challenges have been resolved in favor of approval of the proposed Settlement or the time for any appeals has expired.

HOW DO I PARTICIPATE IN THE PROPOSED SETTLEMENT? WHAT DO I NEED TO DO?

To qualify for a payment out of the Net Settlement Amount, you must be a member of the Class and complete and sign the Proof of Claim form enclosed with this Notice and mail it by First-Class mail to In re IBM Securities Litigation, c/o A.B. Data, Ltd., Claims Administrator, P.O. Box 170500, Milwaukee, WI 53217, postmarked no later than _____, 2008. If a Class member chooses to return his, her or its Proof of Claim form in a manner other than by First-Class mail, then it must be actually received at the address on the Proof of Claim form no later than _____, 2008.

Review the Proof of Claim form and read the instructions carefully. The Proof of Claim form must be supported by such documents specified in the Proof of Claim form as are reasonably available to you.

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The Proof of Claim form incorporates the Releases set forth below. Any member of the Class who fails to submit a Proof of Claim form postmarked or received by _____, 2008, and who has not previously excluded himself, herself or itself from the Class in accordance with the instructions set forth in the Notice of Pendency or does not exclude himself, herself or itself from the Class in accordance with the instructions set forth below, shall be forever barred from receiving any payments pursuant to the proposed Settlement described herein, but in all other respects will be subject to and bound by the provisions of any judgment entered, including but not limited to the releases included therein. This means that if the proposed Settlement is approved by the Court, each Class member will be deemed to have released the Released Claims against the Released Persons, as defined below, and will be enjoined and prohibited from filing, prosecuting or pursuing any of the Released Claims against the Released Persons regardless of whether or not you submit a Proof of Claim. If you have any questions, or need assistance, call the Claims Administrator at (866) 963-9975 toll-free or send an e-mail to info@abdatalawserve.com, and someone will assist you.

WHEN WILL I RECEIVE MY PAYMENT?

The Court will hold a hearing on _____, 2008 to consider whether to approve the proposed Settlement. The Net Settlement Amount cannot be distributed until after the Court has approved the proposed Settlement and any appeals, objections and other challenges have been resolved in favor of its approval, or after the expiration of the time to file an appeal. In addition, there will be no distribution of the Net Settlement Amount until a plan of allocation is finally approved and any appeals, objections and other challenges have been resolved in favor of that plan of allocation. The resolution of any appeals could take more than a year. In addition, the review and processing of Proof of Claim forms must be completed by the Claims Administrator before distribution of the Net Settlement Amount can be made. Claims processing, by itself, is a complicated process and will take many months. Please be patient.

WHAT RIGHTS AM I GIVING UP TO RECEIVE A PAYMENT?

If you are a Class member and if the proposed Settlement is approved by the Court and that approval becomes final, you, on behalf of yourself, your heirs, executors, administrators, successors, assigns and any persons you represent, will release all "Settled Plaintiffs' Claims," against all "Released Defendant Parties" as follows:

(a) "Settled Plaintiffs' Claims" means all claims that were asserted in the Complaint, and any and all claims, rights or causes of action, demands, attorneys' fees, costs, obligations, controversies, debts, damages, losses or liabilities of any kind whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation (whether foreign or domestic), including known and unknown, accrued and not accrued, foreseen and unforeseen, matured and not matured that have been or could have been raised in the Action, or in any forum, arising out of or relating to the allegations, transactions, facts, matters or occurrences, representations alleged or that could have been alleged in the Action and relating to the purchase, transfer or acquisition of shares of the common stock of IBM. Settled Plaintiffs' Claims also includes, to the fullest extent permitted by law: (a) the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides that: 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; and (b) the provisions, right and benefits of any similar statute or common law of any other jurisdiction that may be, or may be asserted to be, applicable. "Settled Plaintiffs' Claims" does not include claims

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relating to the enforcement of the settlement of the Action.

(b) "Released Defendant Parties" means any and all of the Defendants and/or their current or former respective agents, servants, attorneys, auditors, investment advisors, underwriters, officers, directors, employees, partners, subsidiaries, affiliates, insurers, stockholders, heirs, executors, representatives, parents, predecessors, successors, assigns, trusts, benefits committees, related companies 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 or any of the parties listed above.

(c) If you are a Class member, all of the Court's proceedings, rulings, orders, and judgments will apply to you and legally bind you.

CAN I EXCLUDE MYSELF FROM THE CLASS?

YOU WILL BE EXCLUDED FROM THE CLASS ONLY IF YOU PREVIOUSLY REQUESTED EXCLUSION FROM THE CLASS IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH IN THE NOTICE OF PENDENCY OR IF YOU REQUEST EXCLUSION FROM THE CLASS AS FOLLOWS:

You may request to be excluded from the Class by timely mailing a written Request for Exclusion, POSTMARKED ON OR BEFORE _____, **2008**, to: In re IBM Securities Litigation, c/o A.B. Data, Ltd., Claims Administrator, P.O. Box _____, Milwaukee, WI 53217.

Your Request for Exclusion should include your name (and the name of any joint owner of IBM common stock), your address, the number of shares of IBM common stock purchased and sold by you during the Class Period, the date(s) of such purchase(s) and sale(s) and the price(s) paid and received, and should specifically state that you request to be excluded from the Class in the Action. Each individual requesting exclusion must personally sign a Request for Exclusion. In the case of a corporation or partnership requesting exclusion, an officer of the corporation or general partner must sign a Request for Exclusion.

If you request or previously requested to be excluded, you will not be entitled to share in any recovery obtained by the Plaintiffs by settlement or favorable judgment in the Action, including the proposed Settlement with the Defendants described in this Notice. You also will not be bound by any judgment in favor of either the Plaintiffs or Defendants.

DO I HAVE A LAWYER IN THIS CASE?

Yes. The Court appointed the firm of Labaton Sucharow LLP as Lead Counsel in the Action to represent all Class members in this Action. You will not be charged for these lawyers, although they will ask the Court to award a portion of the Settlement Amount as a fee for the services of all Plaintiffs' Counsel to Plaintiffs and the Class and to reimburse them for their expenses in prosecuting this Action. If you want to be represented by your own lawyer, you may hire one at your own expense.

HOW WILL THE LAWYERS BE PAID?

Lead Counsel for the Plaintiffs will apply, on behalf of all Plaintiffs' Counsel, to the Court for an

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award of attorneys' fees from the Settlement Amount not to exceed twenty-eight percent (28%) of the Settlement Amount, and reimbursement of expenses of no greater than \$300,000. In addition, Lead Counsel will apply, on behalf of the Plaintiffs, for an award of costs and expenses incurred by each of them in connection with their roles in the prosecution and resolution of this Action not to exceed \$50,000 in the aggregate. If these amounts are awarded by the Court, the average estimated cost per "damaged" share is \$0.15, for an average net recovery per "damaged" share of approximately \$0.36. Plaintiffs' Counsel have spent almost three years litigating this Action on an entirely contingent-fee basis, and have advanced all of the expenses of litigation with the expectation that if they were successful in recovering money for the Class, they would receive attorneys' fees and be reimbursed for their expenses from any funds recovered on behalf of the Class, as is customary in this type of litigation. Any amounts awarded by the Court will come out of the Settlement Amount.

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE PROPOSED SETTLEMENT, PLAN OF ALLOCATION AND REQUEST FOR ATTORNEYS' FEES AND EXPENSES?

As noted above, the Fairness Hearing will be held on _____, 2008 at _____.m. in Courtroom 14D of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, at which the time Court will consider, among other things, whether the proposed Settlement of the Action on the terms and conditions provided in the Settlement Agreement is fair, reasonable and adequate and should be approved by the Court; and may also consider whether the proposed Plan of Allocation of the Net Settlement Amount is fair, reasonable, and adequate and should be approved by the Court; and whether a Final Judgment should be entered in this Action. The Court expressly reserves the right to adjourn the Fairness Hearing from time to time without any further written notice to Class members, other than notice posted at the Court on the date of the Fairness Hearing. At or after the Fairness Hearing, the Court will also consider whether to approve Lead Counsel's Request for Attorneys' Fees and Expenses and the Plan of Allocation described herein.

WHAT CAN I DO IF I DON'T LIKE THE PROPOSED SETTLEMENT, THE REQUEST FOR ATTORNEYS' FEES AND EXPENSES AND/OR THE PLAN OF ALLOCATION?

If you are a Class member, you can object to the proposed Settlement, the Request for Attorneys' Fees and Expenses and/or the Plan of Allocation if you do not like any part of it. If you object to the proposed Settlement, the Request for Attorneys' Fees and Expenses and/or the Plan of Allocation, you can present reasons why you think the Court should not approve any of them. To object, you must send a letter saying what you object to and the reasons for your objection. Be sure to include the case name and number: "*In re International Business Machines Corp. Securities Litigation*, Civil Action No. 1:05-cv-6279-AKH (S.D.N.Y.)," your name, current address, telephone number, signature, information concerning your purchase(s) and sale of IBM common stock from April 5, 2005, through and including July 13, 2005, including the number of such shares purchased and sold, the dates of purchase and sale, the reason(s) you object to the proposed Settlement, the Request for Attorneys' Fees and Expenses and/or the Plan of Allocation, and all legal support you wish to bring to the Court's attention or evidence you have to support your objection. You must mail or deliver copies of your objection and of any papers you would like to present to the Court to all of the people identified below such that they are *received* no later than _____, 2008:

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The Court:

Clerk of the Court
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Lead Counsel for Plaintiffs:

Jonathan M. Plasse, Esq.
LABATON SUCHAROW LLP
140 Broadway
New York, New York 10005

Counsel for Defendants:

Evan R. Chesler, Esq.
CRAVATH SWAINE & MOORE LLP
825 Eighth Avenue
New York, New York 10019

Any objection may be filed and served on your own or through an attorney hired at your own expense. If you file and serve an objection, you may, but are not required to, appear at the Fairness Hearing, either in person or through an attorney hired at your own expense. If you hire an attorney to represent you at the Fairness Hearing, the attorney must file a notice of appearance with the Clerk of the Court and deliver a copy of that notice to Lead Counsel and Defendants' Counsel, at the addresses set forth above, so that they are *received* no later than _____, **2008**.

ANY CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED ABOVE WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION, AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE PROPOSED SETTLEMENT, THE FEE AND EXPENSE APPLICATION, AND/OR THE PROPOSED PLAN OF ALLOCATION, UNLESS THE COURT ORDERS OTHERWISE.

Class members who do not object to the proposed Settlement, Fee and Expense Application and Plan of Allocation need not appear at the Fairness Hearing.

WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND REQUESTING EXCLUSION?

Objecting is telling the Court that you do not like something about the proposed Settlement, Plan of Allocation or Request for Attorneys' Fees and Expenses. You can object only if you are a Class member. If you have previously submitted, or submit in accordance with the instructions in this Notice, a Request for Exclusion, that tells the Court that you don't want to be a Class member, and therefore you cannot object because the Action no longer affects you.

WHAT WILL HAPPEN IF I DO NOTHING AT ALL?

If you fail to submit a timely Proof of Claim form in response to this Notice, you will not get any money from the proposed Settlement. Whether or not you submit a timely Proof of Claim form, if you

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are a Class member, you will not ever be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against any Defendant or other Released Person asserting any of the Released Claims, as described above.

WHAT IS THE PLAN OF ALLOCATION?

The Plan of Allocation is the method by which the Net Settlement Amount will be allocated among Class members who submit timely, valid and signed Proof of Claim forms ("Authorized Claimants"). It is the product of Plaintiffs' Counsel's investigation and discovery, and consultation with their damages expert. In formulating this Plan of Allocation, Plaintiffs' Counsel considered the applicable law governing the ability to recover damages for the alleged misrepresentations and omissions. Specifically, the United States Supreme Court has held that in order to recover damages, a plaintiff must show a connection between the alleged misrepresentations and the loss. Since this decision, appellate courts have interpreted it to bar a recovery of losses absent a showing that any losses were caused by a public disclosure concerning the alleged fraud.

The alleged misrepresentations and omissions at issue in the Action are alleged to have occurred during a webcast broadcast by IBM which commenced at 5:00 pm EST on April 5, 2005. The first disclosure that IBM would miss consensus earnings per share estimates for the quarter ended March 31, 2005 occurred during a halt in after-hours trading of IBM stock between 4:10 pm EST and 4:36 pm EST on April 14, 2005, after which IBM stock dropped in after-hours trading on April 14, 2005, to \$80.49 per share from the \$83.64 per share close on the New York Stock Exchange ("NYSE") on April 14, 2005, or \$3.14 per share. The following day, IBM common stock closed on the NYSE at \$76.70 per share -- a decline of \$6.94 per share from the \$83.64 per share close on the NYSE on April 14, 2005.

Nevertheless, certain securities analysts raised concerns after the close of all trading on April 6, 2005, as to whether IBM's early adoption of options expensing indicated that IBM would not be able to meet analyst consensus estimates for the first quarter of 2005. These securities analysts, however, were in the minority and could only speculate given the information IBM provided on April 5, 2005. On April 7, 2005, IBM common stock declined by \$0.56 per share to close on the NYSE at \$88.44 per share.

Under applicable law, damages may also be limited, based on the loss or profit realized, for shares purchased during the Class Period and sold during the ninety-day period after the close of the Class Period. Here, that ninety-day period ends on July 13, 2005.

Based on these factors, Plaintiffs' propose that each Authorized Claimant's "Recognized Loss" be calculated for purposes of the proposed Settlement as follows:

(a) For shares of IBM common stock that were purchased after 5:00 pm EST on April 5, 2005, through and including the close of all trading on April 6, 2005, and still held as of the halt in after-hours trading on April 14, 2005, the Recognized Loss per share shall be the lowest of: (1) \$7.50 [\$6.94 + \$0.56]; and (2) if sold on April 14, 2005, after the halt in after-hours trading, or on April 15, 2005, \$0.56 plus the difference between \$83.64 and the sales price; and (3) if sold on or before July 13, 2005 [the 90-day period after April 14, 2005], the difference between (x) the purchase price and (y) the sales price. If you did not incur a loss based upon shares of common stock purchased during the Class Period and sold after the halt in after-hours trading on April 14, 2005, through and including July 13, 2005, then the Recognized Loss per share on such shares shall be \$0.00.

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(b) For shares of IBM common stock that were purchased during the period April 7, 2005, up to the halt in after-hours trading on April 14, 2005, and still held as of the halt in after-hours trading on April 14, 2005, the Recognized Loss per share shall be the lowest of: (1) \$6.94; and (2) if sold on April 14, 2005 after the halt in after-hours trading, or on April 15, 2005, the difference between \$83.64 and the sales price of the shares; and (3) if sold on or before July 13, 2005 [the 90-day period after April 14, 2005], the difference between (x) the purchase price and (y) the sales price. If you did not incur a loss based upon shares of common stock purchased during the Class Period and sold after the halt in after-hours trading on April 14, 2005, through and including July 13, 2005, then the Recognized Loss per share on such shares shall be \$0.00.

(c) For shares of IBM common stock that were purchased after 5:00 EST on April 5, 2005 through and including the close of all trading on April 6, 2005, and sold during the period April 7, 2005 up to the halt in after-hours trading on April 14, 2005, the Recognized Loss per share shall be the lesser of: (1) \$0.56; and (2) the difference between (x) the purchase price and (y) the sales price. If you did not incur a loss based upon the purchase and sale of such shares of IBM common stock, then the Recognized Loss per share on such shares shall be \$0.00.

(d) For shares of IBM common stock that were purchased after 5:00 pm EST on April 5, 2005 through and including the close of all trading on April 6, 2005, and sold during the same period, the Recognized Loss per share shall be \$0.00 because both the purchase and sale occurred during a period when there was no public disclosure concerning any weakness in IBM's first quarter earnings. As a result, any losses on such transactions are not compensable pursuant to the federal securities law claims asserted in this Action.

(e) For shares of IBM common stock that were purchased during the period April 7, 2005 up to the halt in after-hours trading on April 14, 2005 and sold during the same period, the Recognized Loss per share shall be \$0.00 because both the purchase and sale occurred during a period when there was no public disclosure concerning any weakness in IBM's first quarter earnings. As a result, any losses on such transactions are not compensable pursuant to the federal securities law claims asserted in this Action.

(f) For shares of IBM common stock that were purchased prior to 5:00 pm EST on April 5, 2005, the Recognized Loss per share shall be \$0.00 because the alleged misrepresentations and omissions in this Action were disseminated after such purchases.

The date of purchase or sale is the "contract" or "trade" date as distinguished from the "settlement" date. The determination of the price received per share and the price paid per share shall be exclusive of commissions, taxes, fees and charges.

To calculate the statutory damages limitation on IBM common stock purchased and sold during the Class Period and the ninety-day period after the close of the Class Period, such sales must be matched against purchases during the Class Period. To do so, the first in, first out ("FIFO") method will be used in computing the Recognized Loss of an Authorized Claimant. This means that sales of IBM common stock will be first matched with any pre-Class Period holdings and then with purchases during the Class Period in chronological order. All profits determined on a FIFO basis shall be subtracted from the total of all losses determined on a FIFO basis from all transactions in IBM common stock during the Class Period to determine if an Authorized Claimant has a Recognized Loss. If at any time more shares of IBM common stock are sold than have been purchased during the Class Period, an initial balance of a corresponding number of shares will be imputed unless it is indicated on the Proof of Claim form. Only if an Authorized Claimant had a net loss, after the total of such profits are subtracted from the total of

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such losses, will such Authorized Claimant be eligible to receive a distribution from the Net Settlement Amount.

Any person or entity who sold IBM common stock “short” shall have no Recognized Loss with respect to any purchase during the Class Period to cover such short sale.

To the extent there are sufficient funds in the Net Settlement Amount, each Authorized Claimant will receive an amount equal to the Authorized Claimant’s Recognized Loss. If, however, the amount in the Net Settlement Amount is not sufficient to permit payment of the total Recognized Loss of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage that each Authorized Claimant’s Recognized Loss bears to the total of the Recognized Losses of all Authorized Claimants. As such, each Authorized Claimant will receive a *pro rata* share of the Net Settlement Amount. The Court has reserved jurisdiction to allow, disallow, or adjust the Recognized Loss of any Class member on equitable grounds.

A payment to any Authorized Claimant of less than \$10.00 in total, however, will not be included in the calculation and will NOT be distributed and will instead be reallocated to other eligible Authorized Claimants.

Please note that the term “Recognized Loss” is used solely for calculating the amount of participation by Authorized Claimants in the Net Settlement Amount, and does not reflect the actual amount an Authorized Claimant can expect to recover.

No Authorized Claimant will have any claim against Lead Plaintiffs, Plaintiffs’ Counsel, the Claims Administrator, or any other person designated by Lead Counsel, based on distributions made substantially in accordance with this Plan of Allocation, or further orders of the Court. No Authorized Claimant or any other Person shall have any claim against Defendants or Defendants’ Counsel based on the amounts of any distributions from the Net Settlement Amount, any determinations regarding that Person’s eligibility to receive a distribution from the Net Settlement Amount, or any rejection of that Person’s claim to receive a distribution from the Net Settlement Amount.

The Court also reserves the right to modify the Plan of Allocation without further notice to Class members. Payment pursuant to the Plan of Allocation approved by the Court shall be conclusive against all Authorized Claimants.

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

If you hold IBM common stock that was purchased during the Class Period as nominee for a beneficial owner, then within ten (10) days after you receive this Notice, you must either: (a) mail copies of this Notice and the accompanying Proof of Claim Form by first-class mail to each such beneficial owner; or (b) send a list of the names and addresses of such beneficial owners to the Claims Administrator at the following address:

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DO NOT CONTACT THE COURT OR IBM – THEY CANNOT ANSWER YOUR QUESTIONS.**

In re IBM Securities Litigation
c/o A.B. Data, Ltd., Claims Administrator
Attention: Fulfillment Department
P.O. Box _____
4057 North Wilson Drive
Milwaukee, Wisconsin 53217

(800) _____-_____
Fax (414) 963-7950
fulfillment@abdatalawserve.com

ARE THERE MORE DETAILS ABOUT THE PROPOSED SETTLEMENT? WHO SHOULD I
CONTACT IF I HAVE QUESTIONS?

This Notice summarizes the proposed Settlement. More details are contained in the formal Stipulation of Settlement which has been filed with the Court. In addition, Plaintiffs' submissions in support of the proposed Settlement, the Plan of Allocation and Lead Counsel's Fee and Expense Application will be on file with the Court on _____, 2008. If you want a copy of the Stipulation of Settlement, Plaintiffs' submissions in support of the proposed Settlement, the Plan of Allocation or Lead Counsel's Fee and Expense Application, or if you have any questions about these matters, you may: write to the Claims Administrator at *In re IBM Securities Litigation*, c/o A.B. Data, Ltd., Claims Administrator, P.O. Box 170500, Milwaukee, WI 53217, call (866) 966-9975 toll-free, write to Lead Counsel at the addresses set forth above; or visit www.ibmsecuritieslit.com or www.labaton.com.

***PLEASE DIRECT YOUR QUESTIONS TO THE CLAIMS
ADMINISTRATOR OR TO LEAD COUNSEL. DO NOT
CONTACT THE COURT, IBM OR DEFENDANTS' COUNSEL WITH QUESTIONS.***

DATED: _____, 2008

BY ORDER OF THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**Questions? CALL (866) 963-9975 TOLL FREE, OR VISIT www.ibmsecuritieslit.com.
DO NOT CONTACT THE COURT OR IBM – THEY CANNOT ANSWER YOUR QUESTIONS.**

EXHIBIT 2

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

In re INTERNATIONAL BUSINESS
MACHINES CORP. SECURITIES
LITIGATION

Civ. No. 1:05-cv-6279-AKH

PROOF OF CLAIM AND RELEASE

IF YOU PURCHASED OR OTHERWISE ACQUIRED THE COMMON STOCK OF INTERNATIONAL BUSINESS MACHINES CORPORATION (“IBM”) BETWEEN APRIL 5, 2005 AND APRIL 14, 2005, INCLUSIVE (THE “CLASS PERIOD”), AND WERE DAMAGED THEREBY, AND YOU HAVE NOT PREVIOUSLY REQUESTED EXCLUSION FROM THE CLASS, YOU ARE A “CLASS MEMBER” AND YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE PROPOSED SETTLEMENT DESCRIBED IN THE ACCOMPANYING NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION, APPLICATION FOR ATTORNEYS’ FEES AND EXPENSES AND FAIRNESS HEARING (THE “NOTICE”).

IF YOU ARE A CLASS MEMBER, YOU MUST COMPLETE, SIGN AND SUBMIT THIS PROOF OF CLAIM AND RELEASE FORM (THE “CLAIM FORM”) IN ORDER TO BE ELIGIBLE FOR ANY SETTLEMENT BENEFITS. IF SUBMITTED BY FIRST-CLASS MAIL, IT MUST BE POSTMARKED **NO LATER THAN** _____, **2008**, TO THE CLAIMS ADMINISTRATOR AT THE FOLLOWING ADDRESS:

IBM Securities Litigation
c/o A.B. Data, Ltd.
Claims Administrator
Post Office Box 170500
Milwaukee, WI 53217

IF YOU CHOOSE TO RETURN THIS CLAIM FORM BY EXPRESS MAIL, THEN IT MUST BE RECEIVED BY THE CLAIMS ADMINISTRATOR **NO LATER THAN** _____, **2008**

REQUIREMENTS FOR FILING A CLAIM FORM

Please refer to the accompanying Notice to find the definitions of words that are capitalized in the following directions and on the Claim Form, but are not defined in this document.

Your claim will be considered only upon compliance with all of the following conditions:

1. You must accurately complete all portions of the attached Claim Form.

The Claim Form contains purchase/acquisition and sale schedules. You must carefully complete each applicable section of the schedules. List each transaction during the period from April 5, 2005 through July 13, 2005 (ninety days after the close of the Class Period), inclusive, separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day and year of each transaction you list. For any purchases or sales on April 5, 2005, you must also indicate whether they were made after 5:00 pm EST in the appropriate schedule.

Do not omit any requested information regarding your holdings, purchases or sales (including any free receipts and/or free deliveries). This information is necessary to determine your share of any distribution. If you cannot list all transactions in the space provided in the Claim Form, or if you believe that you must, or should, supply additional information with respect to any transaction, attach additional sheets to the Claim Form supplying the required information. Your full name and Taxpayer Identification Number must be properly identified on each additional sheet of paper.

2. You must sign the Claim Form.

If the shares of IBM common stock were, or are, owned jointly, all joint owners must sign the Claim Form. Executors, administrators, guardians, conservators and trustees may complete and sign the Claim Form on behalf of persons or entities represented by them, but they must identify such persons or entities and provide proof of their authority (for example, currently effective letters testamentary, letters of administration, active financial power of attorney, or certification of trust) to complete and execute the Claim Form on their behalf and to bind them in accordance with the terms thereof. A Claim Form submitted by legal representatives of a claimant must be executed by all such representatives.

3. You must provide proof for each transaction listed on this Claim Form.

Attach to the Claim Form legible copies of broker confirmation slips, monthly brokerage statements, or other proof satisfactory to the claims administrator confirming the particulars of each purchase and sale you have made during the period April 5, 2005, through July 13, 2005, inclusive. For all transactions occurring after 5:00 P.M. EST on April 5, 2005, the documentation must include the time of the trade and/or a signed affirmation from a broker attesting to the fact that the trade took place after 5:00 P.M. EST. For all transactions occurring after the after-hours halt in trading for IBM stock between 4:10 P.M. EST and 4:36 P.M. EST on April 14, 2005, you need not provide additional documentation at this time. The Claims Administrator may, however, require additional information, in which case you will be notified. Please make sure that all supporting documentation states the beneficial

owner's account name. If you are filing on behalf of a deceased claimant, please provide a copy of the death certificate and a will or probate documents.

4. If you acquired IBM common stock by means of a gift, inheritance or operation of law during the Class Period, such acquisitions do not qualify as part of the proposed Settlement.
5. Any person or entity that sold IBM common stock "short" shall have no Recognized Loss with respect to any purchase during the Class Period to cover such short sale.
6. You must also provide supporting documentation showing your holdings as of the close of trading on July 13, 2005, if any.
7. Your failure to complete and mail the Claim Form postmarked, or submit it so that it is received, by _____, **2008**, may preclude you from receiving any share of the available proceeds of the proposed Settlement. So that you will have a record of the date of your mailing and its receipt by the claims administrator, you are advised to use certified mail, return receipt requested.
8. For individuals and entities with a United States taxpayer identification number ("TIN"), which is the Social Security number (the "SSN") for individuals or the employer identification number (the "EIN") for entities, the TIN and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of your claim.

ANY PERSON WHO KNOWINGLY SUBMITS A FALSE CLAIM FORM IS
SUBJECT TO PENALTIES FOR PERJURY AND OTHER VIOLATIONS OF
FEDERAL LAW.

Submission of a Claim Form, however, does not assure that you will share in the distribution of the Net Settlement Amount.

If the proposed Settlement is approved by the Court, and if you have a Recognized Loss entitling you to a *pro rata* payment from the Net Settlement Amount as calculated in accordance with the Plan of Allocation described in the accompanying Notice, a check will be sent to you, or to your financial institution by direct deposit if you elect, representing such *pro rata* payment as soon as practicable after all Claim Forms from all Class Members have been processed. Processing all of the Claim Forms will likely take a significant amount of time. Please be patient, and please advise the claims administrator of any changes in your name and/or address.

If you are a Class Member and you do not complete, sign and return the Claim Form postmarked or received by the deadline, you will not receive any money from the Net Settlement Amount, but you will still be bound by all orders of the Court in this Action, including the Release reprinted in the Claim Form.

**Must be Postmarked
No Later Than:**
_____, 2008

STATEMENT OF CLAIM
In re International Business Machines Corp. Securities Litigation
Civ. No. 1:05-cv-6279-AKH

IBM CASE
For Official Use Only

Please print or type

I, _____, and _____ state as follows:
(if applicable)

LAST NAME (CLAIMANT)

FIRST NAME (CLAIMANT)

Last Name (Beneficial Owner If Different from Claimant)

First Name (Beneficial Owner)

Last Name (Co-Beneficial Owner)

First Name (Co-Beneficial Owner)

Company/Other Entity (If Claimant Is Not an Individual)

Trustee/Nominee/Other

Account Number (If Claimant Is Not an Individual)

Trust/Other Date (If Applicable)

☐ **Check here to use Correspondence Address for Distribution**
Correspondence Address Line 1

Correspondence Address Line 2 (If Applicable)

City

State

Zip Code

Foreign Province

Foreign Zip Code

Foreign Country

(Optional) Distribution Address:
Distribution Address Line 1

Distribution Address Line 2 (If Applicable)

City

State

Zip Code

Foreign Province

Foreign Zip Code

Foreign Country

Telephone Number (Day) () - Beneficial Owner's Employer Identification Number or Social Security Number - - E-mail Address _____ _____ _____	Telephone Number (Night) () - _____ _____ _____
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------

IDENTITY OF CLAIMANT

- ☐ Individual
 ☐ Joint Owners
 ☐ Estate
 ☐ Corporation
 ☐ Trust
 ☐ Partnership
 ☐ Limited Liability Company
☐ Other (specify, describe on separate sheet)
☐ IRA, Keogh or other type of Individual Retirement Plan (indicate type of plan, mailing address, and name of current custodian)
☐ Legal Representative

LEGAL REPRESENTATIVES OF CLAIMANTS MUST ATTACH POWER OF ATTORNEY OR OTHER INSTRUMENT SHOWING AUTHORITY TO ACT AS A LEGAL REPRESENTATIVE

Individuals or Entities excluded from participating in the proposed Settlement are: any parents, subsidiaries, affiliates, officers, or directors of IBM and their immediate families; any entity in which any excluded person has a controlling interest; and the legal representatives, heirs, successors and assigns of any excluded person, and any person or entity that previously submitted a timely and valid request for exclusion from the Class or any person or entity who excludes themselves from the Class in accordance with the Notice of Proposed Settlement of Class Action, Application for Attorneys' Fees and Fairness Hearing.

- ☐ Check here if the claimant or beneficial owner is excluded from the Class.
- ☐ Check here if the claimant or beneficial owner was an officer or director of IBM at any time between April 5, 2005, through and including April 14, 2005. If so, please state position(s) held and dates of employment: _____
- ☐ Check here if the claimant or beneficial owner acquired IBM common stock through any IBM employee benefit plan.

DIRECT DEPOSIT – If you prefer your Settlement check to be directly deposited into your bank account, check here ☐

You **MUST** provide the following information to receive your Settlement check by direct deposit:

BANK NAME	_____
ROUTING NUMBER	_____
ACCOUNT NUMBER	_____
<input type="radio"/> CHECKING ACCOUNT <input type="radio"/> SAVINGS ACCOUNT	
CLAIMANT'S ACCOUNT NAME MATCHES SUBMITTED DOCUMENTATION (MUST MATCH) <input type="radio"/> Y <input type="radio"/> N	

Separately list each of your purchases and sales of IBM common stock. Attach a separate schedule if more space is needed. Be sure to include the full name and TIN of the beneficial owner on any additional sheets.

The date of purchase and sale is the “trade” or “contract” date, and not the “settlement” or “payment” date. Documentation of purchases or sales with only the settlement or payment date will be deemed deficient. The purchase price is the price paid without regard to commissions or other expenses. The sale price is the price received without regard to commissions or other expenses.

IF NONE, CHECK HERE ☐

If none, check here. ○

IF YOU REQUIRE ADDITIONAL SPACE, ATTACH EXTRA SCHEDULES IN THE SAME
FORMAT AS ABOVE. PRINT THE FULL NAME AND TIN OF THE BENEFICIAL OWNER
ON EACH ADDITIONAL PAGE.

IF NONE, CHECK HERE ○

List all sales you made of IBM common stock between April 5, 2005 and July 13, 2005, inclusive:

Date(s) of sales List chronologically			Number of shares sold	Sale price per share	Proof of sale enclosed
MM	DD	YYYY		(excluding taxes, commissions, etc.)	
[] []	/	[] [] / [] [] [] []	[] [] [] [] [] [] [] []	\$ [] [] [] [] [] [] . [] []	<input type="radio"/> Y
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[] []	[] []	[] [] [] [] [] []	[] [] [] [] [] [] [] []	[] [] [] [] [] [] [] []	<input type="radio"/> N
[] []	/	[] [] / [] [] [] []	[] [] [] [] [] [] [] []	\$ [] [] [] [] [] [] . [] []	<input type="radio"/> Y
[] []	[] []	[] [] [] [] [] []	[] [] [] [] [] [] [] []	[] [] [] [] [] [] [] []	<input type="radio"/> N

SALES AFTER 5:00 P.M. EST APRIL 5, 2005

Proof enclosed?

☐ Y ☐ N

Please state the number of shares of IBM common stock that you held as of the close of trading on July 13, 2005.

○ Y ○ N

**YOU MUST PROVIDE SUPPORTING DOCUMENTATION OF ALL HOLDINGS AND
TRANSACTIONS IN IBM COMMON STOCK INDICATED ABOVE, INCLUDING
EVIDENCE THAT ANY TRANSACTIONS ON APRIL 5, 2005 OCCURRED AFTER
5:00 P.M. EST**

CERTIFICATION AND SUBSTITUTE FORM W-9

1. I (We) purchased publicly traded common stock of IBM during the period from 5:00 P.M. EST on April 5, 2005, through and including the close of trading on the New York Stock Exchange on April 14, 2005. (Do not submit this Claim Form if you did not purchase IBM common stock during this period.)

2. By submitting this Claim Form, I (we) state that I (we) believe in good faith that I am (we are) a Class Member(s) as defined above and in the Notice, or am (are) legally authorized to act for such person; that I am (we are) not a Defendant(s) in the Action or anyone excluded from the Class; that I (we) have read and understand the Notice; that I (we) believe that I am (we are) entitled to receive a share of the Net Settlement Amount; that I (we) elect to participate in the proposed Settlement described in the Notice; and that I (we) have not previously submitted a request for exclusion. (If you are acting in a representative capacity on behalf of a Class Member (e.g., as an executor, administrator, trustee, or other representative), you must submit evidence of your current authority to act on behalf of that Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.)

3. I (We) have set forth where requested above all relevant information with respect to my (our) ownership of IBM common stock at the commencement of the Class Period and all purchases and sales of IBM common stock during the Class Period and during the 90-day period after the Class Period. I (We) agree to furnish additional information to the claims administrator to support this claim if requested to do so.

4. I (We) have enclosed photocopies of the stockbroker's confirmation slips, stockbroker's statements, relevant portions of my tax returns or other documents evidencing each purchase, sale or retention of IBM common stock listed above in support of my (our) claim. For purchases and acquisitions of IBM common stock on April 5, 2005, I (we) have enclosed documentation and/or an attestation from a broker demonstrating that the shares were acquired after 5:00 P.M. EST. (IF ANY SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN A COPY OR EQUIVALENT DOCUMENTS FROM YOUR BROKER OR TAX ADVISOR BECAUSE THESE DOCUMENTS ARE NECESSARY TO PROVE AND PROCESS YOUR CLAIM.)

5. I (We) understand that the information contained in this Claim Form is subject to such verification as the claims administrator may request or as the Court may direct, and I (we) agree to cooperate in any such verification.

6. Upon the occurrence of the Effective Date (the date on which the proposed Settlement is approved by the Court and that approval becomes final), my (our) signature(s) hereto will constitute a full and complete release, remise and discharge by me (us) and my (our) heirs, executors, administrators, successors and assigns (or, if I am (we are) submitting this Claim Form on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their heirs, executors, administrators, successors, and assigns) of all "Released Claims," including "Unknown Claims" against each and all of the "Released Persons," as each term is defined in the Notice.

7. NOTICE REGARDING ELECTRONIC FILES: Certain claimants with large numbers of transactions may make a request to the claims administrator to accept, or may be requested by the claims administrator to submit, information regarding their transactions in IBM common stock in electronic files. All claimants MUST submit a manually signed paper Claim Form listing all their transactions whether or not they also submit electronic copies. If you wish to file your

Claim Form electronically, you must contact the Claims Administrator at 1 (800) 949-0194 or visit their website at abdatalawserve.com/file_claims_electronically.php to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

ALL CLAIMANTS MUST COMPLETE EITHER THE FORM W-9 OR W-8, AS APPLICABLE, PER THE INSTRUCTIONS BELOW AND SIGN THE CERTIFICATION BELOW

SUBSTITUTE FORM W-9 FOR UNITED STATES CITIZEN, RESIDENT OR ENTITY

Enter the TIN below for the beneficial owner(s). The Internal Revenue Service (“IRS”) requires such TIN. If you fail to provide this information, your Claim may be rejected.

EIN:

 -

 OR SSN:

 -

 -

I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406 (a)(1)(c) of the Internal Revenue Code because: (a) I am (we are) exempt from backup withholding, or (b) I (we) have not been notified by the IRS that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If the IRS has notified you that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

Instructions for Substitute Form W-9:

1. If your account is held jointly, BOTH parties must sign the form above.
2. If you have a joint account, only the Social Security number associated with that account is required to be provided.
3. You may contact the In re IBM Securities Litigation Helpline at (866) 963-9975 with any questions you may have or if you need additional assistance filling out this form.

SUBSTITUTE FORM W-8 FOR NON-UNITED STATES CITIZEN, RESIDENT OR ENTITY

Certificate of Foreign Status of beneficial owner for United States tax withholding

Last Name

First Name

Country

[illegible]

Check Appropriate Box:

- ☐ Individual ☐ Corporation ☐ Partnership ☐

- ☐ Grantor trust
- ☐ Disregarded entity
- ☐ International organization
- ☐ Complex trust
- ☐ Private foundation
- ☐ Simple trust
- ☐ Estate
- ☐ Government
- ☐ Central bank of issue
- ☐ Tax-exempt organization

Enter United States taxpayer identification number ("TIN") on appropriate line, if applicable. For individuals, this is your Social Security Number ("SSN"). If you are not an individual or you are an individual who is an employer or who is engaged in a United States trade or business as a sole proprietor, you must enter an Employer Identification Number ("EIN"). If you are a disregarded entity claiming treaty benefits as a hybrid entity, enter your EIN. If you are a non-United States citizen and have no SSN or EIN, please check "Not Applicable."

EIN: - OR SSN: - -

- ☐ Not Applicable

CERTIFICATION FOR ALL CLAIMANTS

UNDER THE PENALTY OF PERJURY UNDER THE LAW S OF THE UNITED STATES OF AMERICA, I (WE) CERTIFY THAT:

1. I am (We are) the beneficial owner(s) (or am authorized to sign for the beneficial owner(s)) of all the income to which this form relates;
2. The beneficial owner(s) is (are) not a United States person;
3. The income to which this form relates is not effectively connected with the conduct of a trade or business in the United States or is effectively connected but is not subject to tax under an income tax treaty; and
4. For broker transactions or barter exchanges, the beneficial owner(s) is (are) an exempt foreign person(s).

Furthermore, I (we) authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am (we are) the beneficial owner(s) or any withholding agent that can disburse or make payments of the income of which I am (we are) the beneficial owner(s).

The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to establish your status as a non-United States person(s) and, if applicable, obtain a reduced rate of withholding.

UNDER THE PENALTIES OF PERJURY PURSUANT TO 28 U.S.C. § 1746, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS FORM IS TRUE, CORRECT AND COMPLETE.

Signature of Claimant(s)

Signature

Signature

Date

Capacity of Person Signing (e.g., beneficial owner, purchaser(s), executor, administrator, trustee, etc.)

REMINDER CHECKLIST

1. Please remember to attach supporting documents. Do NOT send any stock certificates. Keep copies of everything you submit.
2. Do NOT use highlighter on the Claim Form or any supporting documents.
3. If you move or change your name after submitting this Claim Form, please notify the claims administrator of the change in your name and/or address.
4. Keep a copy of your Claim Form and all documentation submitted for your records; originals cannot be returned to you once the documents are submitted.
5. You will **not** receive confirmation that your Claim Form has been received **unless** you send it via Certified Mail, Return Receipt Requested or by some other means that provides you with proof of receipt.

EXHIBIT 3

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

In re INTERNATIONAL BUSINESS
MACHINES CORP. SECURITIES
LITIGATION

Civ. No. 1:05-cv-6279-AKH

**SUMMARY NOTICE OF PROPOSED SETTLEMENT OF
CLASS ACTION, APPLICATION FOR ATTORNEYS' FEES
AND EXPENSES AND FAIRNESS HEARING**

TO: ALL PERSONS AND ENTITIES THAT PURCHASED OR OTHERWISE ACQUIRED THE COMMON STOCK OF INTERNATIONAL BUSINESS MACHINES CORPORATION ("IBM") BETWEEN APRIL 5, 2005 AND APRIL 14, 2005, INCLUSIVE (THE "CLASS PERIOD"), AND WERE DAMAGED THEREBY (THE "CLASS").

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE
AFFECTED BY A SETTLEMENT IN THIS CLASS ACTION LAWSUIT.

This Summary Notice of Proposed Settlement of Class Action, Application for Attorneys' Fees and Expenses and Fairness Hearing is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of New York. The purpose of this notice is to inform you of the proposed Settlement that has been reached in this class action between plaintiffs Joseph and Nilda Anchinovski and Donald Rubenstein (collectively, "Plaintiffs") on behalf of themselves and the members of the Class, and Defendants IBM and Mark Loughridge (collectively, "Defendants").

The proposed Settlement provides for the creation of a twenty million dollar (\$20,000,000.00) Settlement Amount, plus interest, for the benefit of the Class. A Fairness Hearing will be held before the Honorable Alvin K. Hellerstein, United States District Judge, on _____, 2008, at __:__ .m. in Courtroom 14D of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, to determine, among other things, (i) whether the proposed Settlement is fair, reasonable and adequate and should be approved, and therefore, whether the Action should be dismissed with prejudice; (ii) whether a proposed Plan of Allocation for the distribution of the Net Settlement Amount to Authorized Claimants should be approved; and (iii) whether the application by Plaintiffs' Counsel for an award of attorneys' fees and reimbursement of expenses they have incurred, and for an award of costs and expenses to the Plaintiffs for their efforts, in prosecuting the Action should be approved. The Court has expressly reserved the right to adjourn the Fairness Hearing from time to time without any further written notice to Class members.

You are a Class member if you purchased IBM common stock during the period between April 5, 2005 and April 14, 2005, inclusive, and you did not previously submit a timely and valid request exclusion from the Class and do not request exclusion from the Class in the manner

provided in the Notice (defined below). If you are a Class member, your rights against the Defendants and certain affiliated persons and entities will be affected if the proposed Settlement is approved by the Court.

If you are a Class member and wish to share in the Settlement proceeds, you must submit a signed Proof of Claim form postmarked or received by _____, 2008, establishing that you are entitled to a recovery. IF YOU DO NOT TIMELY SUBMIT A SIGNED PROOF OF CLAIM FORM, YOU WILL NOT SHARE IN THE SETTLEMENT PROCEEDS, BUT YOU WILL STILL BE BOUND BY THE FINAL JUDGMENT OF THE COURT.

This notice provides only a summary of matters concerning the Action and the proposed Settlement and incorporates by reference certain defined terms, the meanings of which are set forth in a detailed Notice of Proposed Settlement of Class Action, Application For Attorneys' Fees and Expenses and Fairness Hearing (the "Notice") and Proof of Claim form that have been mailed to Class Members. The Notice and Proof of Claim form contain additional important information regarding the proposed Settlement and related matters affecting Class Members' rights. If you have not received a copy of the Notice or the Proof of Claim form, you may obtain them free of charge by contacting: In re IBM Securities Litigation, Claims Administrator, c/o A.B. Data, Ltd., P.O. Box _____, Milwaukee, Wisconsin 53217, toll-free telephone (866) 963-9975, or by downloading them from www.ibmsecuritieslit.com, www.labaton.com or www.klafterolsen.com.

You may also contact Lead Counsel for the Plaintiffs directly: Jonathan Plasse, Esq., Labaton Sucharow LLP, 140 Broadway, New York, NY 10005.

EMPLOYEES OF THE COURT OR IBM CANNOT ANSWER QUESTIONS ABOUT THIS CASE. PLEASE DIRECT ALL QUESTIONS TO THE CLAIMS ADMINISTRATOR OR LEAD COUNSEL.

Dated: _____, 2008

BY ORDER OF THE UNITED
STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK