

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN

IN RE PHOENIX LEASING LIMITED PARTNERSHIP LITIGATION

Case No. 173739

NOTICE TO CLASS OF PROPOSED SETTLEMENT

TO: ALL PERSONS OR ENTITIES WHO PURCHASED LIMITED PARTNERSHIP INTERESTS IN THE PHOENIX LEASING CASH DISTRIBUTION FUNDS I THROUGH V, EXCEPT FOR DEFENDANTS, THEIR AFFILIATES, CONTROL PERSONS, GENERAL PARTNERS, AGENTS, ASSIGNS, PARENTS, SUBSIDIARIES, OFFICERS, DIRECTORS, AND ANY OFFICERS AND DIRECTORS OF ANY AFFILIATES AND PARENTS.

PLEASE READ THIS NOTICE OF PROPOSED SETTLEMENT ("SETTLEMENT NOTICE") CAREFULLY IN ITS ENTIRETY. YOU MAY BE ENTITLED TO RECEIVE A PAYMENT IN CONNECTION WITH THE PROPOSED SETTLEMENT ("SETTLEMENT") OF THE CLASS ACTION ("ACTION") DESCRIBED IN THIS SETTLEMENT NOTICE. THIS IS THE SECOND NOTICE YOU HAVE RECEIVED CONCERNING THE PHOENIX LEASING LIMITED PARTNERSHIP LITIGATION. A NOTICE OF PENDENCY OF CLASS ACTION ("NOTICE OF PENDENCY") WAS SENT TO YOU ON JANUARY 8, 2001 DESCRIBING THE ACTION AND ADVISING YOU OF THE CERTIFICATION OF TWO CLASSES AND THREE SUBCLASSES (TOGETHER, "CLASS") AND YOUR RIGHT TO EXCLUDE YOURSELF FROM THE CLASS.

THIS SETTLEMENT NOTICE ADVISES YOU OF THE SETTLEMENT OF THE ACTION AND HOW TO FILE A PROOF OF CLAIM. UNLESS YOU PREVIOUSLY TIMELY EXCLUDED YOURSELF FROM THE CLASS, YOU ARE A MEMBER OF THE CLASS ("CLASS MEMBER") AND MAY FILE A PROOF OF CLAIM. THE TIME TO EXCLUDE YOURSELF EXPIRED ON MARCH 8, 2001.

THERE IS A PROOF OF CLAIM FORM ATTACHED TO THIS NOTICE. YOU MUST FILE A PROOF OF CLAIM BY MARCH 22, 2002 TO PARTICIPATE IN THE BENEFITS OF THE SETTLEMENT.

A hearing regarding the proposed Settlement of this Action will be held on February 19, 2002 at 9:00 a.m. before the Honorable Lynn Duryee in Dept. No. L at 3501 Civic Center Drive, San Rafael, CA 94913. The hearing will be held to determine whether the Settlement, plan of allocation, request for attorneys' fees and costs and request for incentive awards are fair, reasonable and adequate, and whether the Action should be dismissed with prejudice.

If you are a Class Member and have not excluded yourself pursuant to the Notice of Pendency, you should read this Settlement Notice carefully because it will affect your rights.

Class Members who have not excluded themselves and do not oppose the Settlement described in this Settlement Notice will be represented by the following Co-Lead Counsel:

Co-Lead Counsel

CHIMICLES & TIKELLIS LLP

Nicholas E. Chimicles
One Haverford Center
361 West Lancaster Avenue
Haverford, PA 19041
(610) 642-8500

**GOODKIND LABATON RUDOFF
& SUCHAROW, LLP**

Joel H. Bernstein
100 Park Avenue, 12th Floor
New York, NY 10017
(212) 907-0700

Additional Class Counsel

JEFFREY M. JONES, P.C.

Jeffrey M. Jones
Pioneer Telegraph Building
1015 Second Street
Old Sacramento, CA 95814
(916) 443-1776

**HANZMAN, CRIDEN, CHAYKIN
& ROLNICK, P.A.**

Michael E. Criden
220 Alhambra Circle, Suite 400
Coral Gables, FL 33134
(305) 357-9000

1. BACKGROUND OF THE CASE¹

The Parties

This Settlement Notice advises of the Settlement of an Action filed concerning the Phoenix Leasing Cash Distribution Funds I through V ("CDFs I-V") (together, the "Partnerships"). Plaintiffs are purchasers or holders of limited partnership interests in the Partnerships (together, "Plaintiffs"). Plaintiffs filed this Action in October 1997 against Phoenix Leasing Incorporated, Phoenix Leasing Associates II L.P., Phoenix Leasing Associates II, Inc., Phoenix Securities, Inc. and Phoenix American Incorporated (together, "Defendants"). In September 2000 Plaintiffs filed a consolidated class and derivative complaint ("Consolidated Complaint") in the Superior Court for the County of Marin in which the Partnerships were named as nominal defendants. The

¹ For a further description of the case, please consult the Notice of Pendency. The Notice of Pendency can be secured by contacting Class counsel (listed above) or may be reviewed on the websites of Class counsel at www.chimicles.com or www.glr.com.

Defendants organized, marketed and operated the Partnerships. The Partnerships were organized under California law to purchase computer and other equipment for lease to third parties. The Court certified the Action as a Class Action and ordered distribution of the Notice of Pendency you have already received.

Allegations

Plaintiffs' Consolidated Complaint alleged that the Defendants operated the Partnerships for their own financial advantage; that Defendants, because of their extensive experience in computer equipment leasing, knew that the residual values of the equipment purchased for the Partnerships would drop rapidly, and that as a result, the limited partners would not profit from their investments in the Partnerships or break even; and further, that Defendants caused the Partnerships to continue purchasing equipment for lease so that the Defendants could continue collecting large fees from the Partnerships. With respect to CDF V only, Plaintiffs alleged that Defendants marketed CDF V as a conservative and safe investment while failing to disclose the risk that CDF V had virtually no chance of achieving its investment objectives.

Defendants have denied and continue to deny all allegations of wrongdoing or liability arising from their marketing, underwriting or operation of the Partnerships.

Class and Derivative Claims

Plaintiffs asserted the following claims: (1) claims for accounting and alter ego liability on behalf of the Class (all current and former holders of limited partnership interests in CDFs I-V); (2) fraud, negligent misrepresentation, breach of fiduciary duty and conspiracy on behalf of a subclass of purchasers of limited partnership interests in CDF V; (3) claims for dissolution of CDFs IV and V on behalf of subclasses of all current owners of CDFs IV or V; and (4) derivative claims for breach of fiduciary duty and constructive fraud on behalf of the Partnerships.

Summary of the Litigation

Defendants answered the Consolidated Complaint denying all allegations of wrongdoing, denying all liability on any of the claims and asserting various affirmative defenses. The Parties have vigorously litigated this Action since it was filed in 1997, filing and responding to demurrers, appeals, mandamus proceedings, class certification motions and discovery motions, conducting intensive document review, attending hearings and conducting depositions of Defendants' present and former employees and non-party witnesses. Pursuant to the Court's order, Plaintiffs and Defendants participated in three unsuccessful mediation sessions and then were ordered to choose a new mediator and participate in a fourth mediation, which was successful. At these mediation sessions the parties engaged in arm's-length negotiations in an attempt to resolve this Action.

As a result of the factual investigation, negotiation and mediation, on July 11, 2001 Plaintiffs and Defendants reached an agreement in principle to settle this Action.

Insurance Coverage

Defendants maintain insurance coverage for the types of claims asserted in the Action under insurance policies issued by National Union Fire Insurance Company of Pittsburgh, PA ("National Union") (primary liability policy); certain underwriters subscribing to Lloyds of London ("Lloyds") (excess coverage policy); and Reliance Insurance Company ("Reliance") (excess coverage policy). The combined insurance coverage available to Defendants when the Action was filed was \$25,000,000. Defendants wish to avoid the cost and risk of a lengthy trial and avoid the risk that further litigation could subject them to liability greater than that represented by the Settlement or liability in excess of their insurance coverage.

Therefore, Plaintiffs on behalf of themselves and the Class and Defendants have entered into the Settlement.

2. SETTLEMENT

This Notice is a summary and does not describe all the details of the Settlement. A full copy of the Settlement Agreement as executed by counsel for the parties (the "Settlement Agreement") may be examined during regular business hours in the office of the clerk of this Court.

PLEASE CONSULT THE SETTLEMENT AGREEMENT FOR A MORE DETAILED STATEMENT OF THE TERMS OF THE SETTLEMENT.

Class counsel believe, based on their investigation of the facts and legal principles applicable to claims in the Consolidated Complaint, that the Settlement is fair, reasonable and adequate, in the best interests of the Class, and will confer substantial benefits on the Class.

A summary of the Settlement's terms is as follows:

Settlement Fund

By November 26, 2001, Plaintiffs and Defendants shall establish a Settlement Fund by depositing cash in the amounts described below to be held in escrow ("Settlement Fund") for the benefit of Plaintiffs and the Class.

- a. The Defendants shall deposit into the Settlement Fund the amount of \$500,000, no part of which may come from the assets of the Partnerships.
- b. National Union shall deposit into the Settlement Fund an amount equal to the balance of the proceeds of its insurance policy (estimated to be no less than \$5,500,000 after payment of Defendants' reasonable attorneys' fees).
- c. Lloyds shall deposit into the Settlement Fund \$5,000,000.
- d. The Settlement Fund will accrue interest at the escrow agent's current rate from the date of deposit until distribution.

Assignment of Rights Against Reliance and Defendants' Consent to Judgment

Defendants shall assign to Plaintiffs all of their rights under the Reliance policy ("Assignment") and consent to the Court's entry of judgment against Defendants in the amount of \$21,000,000 ("Judgment"), \$10,000,000 of which will be sought to be recovered by Class counsel exclusively from the Reliance policy. Reliance has been declared insolvent by the Insurance Commission of the Commonwealth of Pennsylvania, and there is a risk that Class counsel may not be able to recover, in whole or in part, from Reliance.

Dismissal and Releases

If the proposed Settlement is approved, the Court will enter a Final Order and Judgment dismissing the claims in the Action, and the Consolidated Complaint, with prejudice. The Final Order and Judgment will provide that all Class Members who have not validly and timely requested exclusion from the Class pursuant to the Notice of Pendency shall be deemed to have released and forever discharged all claims, rights, and demands of whatever kind, whether presently known or unknown, that could have been asserted against Defendants, the Partnerships, National Union, Lloyds, and certain other persons in the Action, and will bar all such Class Members from instituting any action asserting claims arising out of the facts and circumstances underlying and/or based upon the purchase of Partnership interests, or which could have been asserted in the Action.

3. ATTORNEYS' FEES, PLAINTIFFS' AWARDS, ADMINISTRATIVE COSTS AND OTHER COSTS

Attorneys' Fees and Plaintiffs' Awards

Class counsel will apply to the Court one or more times for an award of attorneys' fees not to exceed one-third of (a) the Settlement Fund and (b) of the proceeds resulting from the Assignment, if any, plus reimbursement of reasonable out-of-pocket disbursements, and interest at the same rate as earned by the Settlement Fund, and for an award of \$2,500 for each of the named plaintiffs for his or her participation in the successful prosecution of this Action.

Administrative Costs

A portion of the Settlement Fund shall be used for the administration of the Settlement, including the cost of this Settlement Notice.

Other Costs

A portion of the Settlement Fund, estimated not to exceed \$800,000, may also be used to pay Defendants' reasonable attorneys' fees insofar as the fees are incurred by Defendants for matters necessary to finalize the Settlement or to respond to any claim raised with respect to Reliance or the Assignment. Any disagreement between Class counsel and defense counsel regarding the reasonableness of said attorneys' fees shall be resolved by binding arbitration.

4. PLAN OF ALLOCATION

The balance of the Settlement Fund remaining after the payments made as described in paragraph 3 above ("Net Settlement Fund") will be distributed according to the Plan of Allocation in the Settlement Agreement (the "Plan of Allocation"). Class Members who have not excluded themselves pursuant to the Notice of Pendency must submit a Proof of Claim in the form attached to this notice to participate in the distribution. If the Claims Administrator, Complete Claim Solutions, Inc., determines that the Class Member is eligible to participate in the distribution of the Net Settlement Fund ("Eligible Claimant"), the Eligible Claimant will receive a distribution from the Net Settlement Fund as follows:

First Allocation

Each Eligible Claimant will be allocated the sum of \$1.00 for every \$250 invested by that Eligible Claimant in the Partnerships.

Second Allocation

Then, each Eligible Claimant will be allocated an amount according to the Eligible Claimant's Recognized Loss as follows,

- a. for CDFs I-IV, from the total amount invested by the Eligible Claimant in each Partnership, subtract the total of (i) the distributions received by the Eligible Claimant for each Partnership investment, (ii) the amount received from any redemption or sale of Partnership interests, net of any redemption penalty, and (iii) the total amount of any proceeds received from any sale or transfer of Units, net of any commissions or transfer fees. The difference is the Recognized Loss.
- b. for CDF V, from the total amount invested by the Eligible Claimant in CDF V, subtract the total of (i) the distributions received by the Eligible Claimant for the investment in CDF V, (ii) the amount received from any redemption or sale of interests in CDF V, net of any redemption penalty, and (iii) the total amount of any proceeds received from any sale or transfer of Units, net of any commissions or transfer fees. The difference is the Recognized Loss. If the Eligible Claimant purchased Units of CDF V during the offering period, simple interest on the balance will be added, computed at 7% per annum running from October 28, 1993 until the date of entry of a Final Order and Judgment by the Court. If the Eligible Claimant purchased Units of CDF V other than in its offering period, no interest will be added.

If the amount in the Net Settlement Fund is not sufficient to reimburse Eligible Claimants fully for their Recognized Losses described in paragraphs a. and b. above, then distributions shall be made pro rata to each Eligible Claimant in proportion to the ratio that such Eligible Claimant's Recognized Loss bears to the total Recognized Loss of all Eligible Claimants having Recognized Loss.

Alternatively, if any funds remain after the First and Second Allocations, these funds shall be distributed to each Eligible Claimant pro rata in proportion to the ratio that the amount invested by such Eligible Claimant in the Partnership bears to total investments by all Eligible Claimants.

Reliance Allocation

Any recovery on the Assignment shall be distributed in the same manner as described above in the Plan of Allocation.

5. CONDITIONS FOR SETTLEMENT

The Settlement is conditioned upon the occurrence of certain events. Those events include, among other things, entry of the Final Order and Judgment by the Court, as provided for in the Settlement Agreement and the exhaustion of all appeals from, or the expiration of the time to appeal from or alter or amend, the Final Order and Judgment. The Effective Date of the Settlement will be the date when these conditions occur. If for any reason any of these conditions does not occur, the Settlement Agreement will be terminated and become null and void, and the Plaintiffs and Defendants will be restored to their respective conditions as of October 9, 2001.

6. WHAT TO DO

To Make A Claim:

You must file a Proof of Claim to participate in the recovery. Complete the Proof of Claim enclosed with the Notice and mail to the Claims Administrator:

Phoenix Leasing Partnership Litigation
c/o Complete Claim Solutions, Inc.
P.O. Box 24660
West Palm Beach, FL 33416

Special Notice to Nominees

If you hold any Partnership interests as nominee for a beneficial owner, then within ten (10) days after you receive this Settlement Notice, you must either (1) send a copy of this Settlement Notice and the Proof of Claim by first class mail to all such persons; or (2) provide a list of the names and addresses of such persons to the Claims Administrator:

Complete Claim Solutions, Inc., P.O. Box 24660, West Palm Beach, FL 33416

If you choose to mail the Settlement Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred in connection with forwarding the Settlement Notice and Proof of Claim, and which would not have been incurred but for the obligation to forward the Settlement Notice and Proof of Claim, upon submission of appropriate documentation.

To Object To The Settlement:

Any Class Member who objects to the Settlement, the Plan of Allocation, or the amount of fees or expenses claimed by attorneys for the class or the award to Plaintiffs, may appear personally or through counsel at the hearing and object to the approval of any of these matters. In order to be heard or to have papers or briefs considered by the Court, any objecting Class Member must file a notice of intention to appear along with any papers for the Court to consider and must serve them on the counsel listed below by February 12, 2002.

**Co-Lead Counsel: GOODKIND LABATON RUDOFF
& SUCHAROW**
Joel H. Bernstein, Esquire
100 Park Avenue, 12th Floor
New York, NY 10017

**Defense Counsel: McCUTCHEN, DOYLE,
BROWN & ENERSEN, LLP**
Mary T. Huser, Esquire
3150 Porter Drive
Palo Alto, CA 84304

IF YOU DO NOT OPPOSE THE PROPOSED SETTLEMENT YOU NEED NOT APPEAR AT THE HEARING OR FILE ANY PAPERS WITH THE COURT. All objections should also be filed with the Court clerk at **Marin County Superior Court, Office of the Clerk, 3501 Civic Center Drive, San Rafael, CA 94913-4988**

Copies of all documents filed with the Clerk of the Court must be sent to the counsel listed above.

7. CHANGE OF ADDRESS

If you move after receiving this notice or if it was misaddressed, you should supply your name and correct address to the Claims Administrator: Complete Claim Solutions, Inc., P.O. Box 24660, West Palm Beach, FL 33416

THIS IS IMPORTANT SO THAT YOUR SHARE OF THE SETTLEMENT OR FUTURE NOTICES REACH YOU.

The pleadings and all other records of this litigation may be examined and copied any time during regular office hours in the office of the Clerk of Court at the above listed address.

DO NOT CALL OR WRITE TO DEFENDANTS OR THE COURT OR THE CLERK OF THE COURT. IF YOU HAVE QUESTIONS ABOUT THIS NOTICE YOU MAY CALL TOLL FREE 800-579-4750. YOU MAY ALSO ADDRESS INQUIRIES IN WRITING TO THE ATTORNEYS FOR THE CLASS AT THE ADDRESSES SET FORTH ON PAGE 1 OF THIS NOTICE.

Dated: November 14, 2001

Judge M. Lynn Duryee
Superior Court of the State of California
County of Marin